

[Shri C. R. Pattabhi Raman]

That means that the discretion of the High Court is taken away completely. Here you had a section where, wherever the Reserve Bank entered into the field in winding up, the High Court had to go in a certain way. Section 40 of the old Act gives the stay of proceedings. There again, unless the High Court is satisfied with the arrangement made

Shri V. P. Nayar: The matter is not so complicated. I concede that this is ousting the jurisdiction which the High Court may derive under the Companies Act.

My contention is that the wording is very unhappy.

Shri C. R. Pattabhi Raman: I am only saying this. Ouster is not a unique provision. It is not a novel thing. There has already been a provision for ouster in the old Act. Here it is only stay. After all, what are we fighting about?

Clause 25 which seeks to amend section 37 says this:

"Where the Reserve Bank is satisfied that the affairs of a banking company in respect of which an order under sub-section (1) has been made

There is an order already

are being conducted in a manner detrimental to the interests of the depositors, it may make an application to the High Court for the winding up of the company and where any such application is made the High Court shall not make any order extending the period for which the commencement or continuance of all actions and proceedings against the company were stayed under that sub-section."

What happens is a stay was given, all that is saved under this amendment. Nothing new is intended.

Shri Narayankutty Menon: The only point is about the language used so far as the High Court is concerned: not so far as the question of law is concerned. There is no complaint on that.

Dr. B. Gopala Reddi: The spirit is more important than the words.

Mr. Deputy-Speaker: The question is

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

The motion was adopted.

16.22 hrs.

OIL AND NATURAL GAS COMMISSION BILL

The Minister of Mines and Oil (Shri K. D. Malaviya): Sir, I beg to move:

That the Bill to provide for the establishment of a Commission for the development of petroleum resources and the production and sale of petroleum and petroleum products produced by it and for matters connected therewith be taken into consideration."

I would like, with your permission, at this stage, very briefly, to refer to certain clauses that have been mentioned here and to explain why I want to move this Bill with a view to converting the present Oil and Natural Gas Commission into a statutory Commission.

The Oil and Natural Gas Commission was set up by a Government Resolution some time in 1956. It is still a Government department. In a subsequent year, after 1956, some more powers were transferred to it by the Ministry. But these powers were relatively insignificant so far as the object of expedition and increasing the efficiency of the Commission is concerned. The functioning of the

*Moved with the recommendation of the President

entire Oil and Natural Gas Commission continued within the framework of the Government machinery and in the routine inter ministerial control methods. Experience showed that because of the particular intricacies of oil research programme and the increasing size of the organisation and the rapidly expanding volume of work handled by it, the framework of limitations on the functioning of the Oil and Natural Gas Commission proved inadequate. In spite of that, the Oil and Natural Gas Commission, with all its limited powers, struggled and wanted to complete the targets that were laid down after consultations with all types of experts that were available to us. Those targets, unfortunately, have not been fulfilled. There are very valid reasons for these targets not being fulfilled. I will come to them later on. But, one of the most important reasons is that we arrived at a stage when it was no longer possible for the Oil and Natural Gas Commission with its limitations to function for that expedition which is absolutely necessary for the oil search programme. You know, Sir that in 1956 or to be accurate in December 1955 we started from scratch. At that time the oil exploration or this oil business was not at all known to our Government. The policy was different then and there was not a single oil geologist or oil technician in the Government. Therefore, we had to start from scratch, immediately after a policy was enunciated by Government, and the entire responsibility for implementing a programme as set out by Government, under the public sector, was placed on the Ministry. We rapidly organised training cells, and with the assistance of foreign experts, and more especially of the foreign experts that came to us from the USSR and Rumania we organised a batch of workers and then undertook the work in a modest way. Soon, we found out that the obligations on the Oil and Natural Gas Commission were far more than what we had expected. Therefore, we rapidly gave powers to the Oil and Natural

Gas Commission within the framework of the Government rules and regulations and inter-Ministerial control and we expected that perhaps the Oil and Natural Gas Commission would be able to deliver the goods, so far as the targets were concerned. But very soon we found out that that could not be done.

The entire nature of the oil search programme is such that we have to function in an atmosphere of, and in the background of, uncertainties. The annual budgets or estimates are more often deviated from than stuck to. Besides that, too many changes and frequent modifications of the scheme is a result of technical assessment, periodical technical appraisal are necessary if I may say so, even in the programme of oil exploration. We build our estimates, technical estimates on a certain assessment, and soon after we have undertaken certain practical work to confirm the theoretical technical assessment, we find that the whole thing was wrong, and therefore we have to change the complete picture of our practical work. In this framing of programme and its implementation considering the uncertainties that are involved in it, we have found that the oil and Natural Gas Commission should possess more elasticity, greater autonomy and less of control which is the usual way with the routine functioning of Government.

As an illustration and with a view to give an idea as to how we have expanded, I would like to give the following figures. When we started our work in 1956 as I said, we had not more than one or two oil geologists whom we had drawn from the Geological Survey of India. We rapidly created facilities for training, and we have at present 169 Indian oil geologists and two foreign oil geologists. By the end of this Plan, it is proposed—our schemes have been framed and plans completed—to train and engage 545 oil geologists. If we

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have any intention to stick to the programme that has been laid down in the hope of producing the quantity of crude oil we envisage, we must have 545 oil geologists by the end of this Plan. If our schemes go through, as we wish, by the end of the Third Plan, we must have 890 oil geologists. As regards geophysicists, we have about 178 just now we would like to have 294 and by the end of the Third Plan we will have 800. With regard to drilling technicians—drilling is the most difficult thing that we have to do in our organisation because it is a new technique and very difficult to develop in a short time—we have so far about 378 Indian drillers and other drilling technicians and about 60 foreigners. By the end of this Plan, this number will go up from 378 to 2085, and by the end of the Third Plan, we will have under the Oil and Natural Gas Commission more than 6000 drillers, more than 800 geophysicists and more than 800 oil geologists.

Such a vast problem of finding oil technicians and vastly spread areas like Sibsagar in the eastern part of our country, Hocharpur and Kashmir in the north, Saurashtra in the west and Godavari and Tiruchirapalli in the south makes me feel that the task is so gigantic that it is an obvious thing for all of us to appreciate that if we want to go ahead fast the Oil and Natural Gas Commission must be provided with more elasticity and autonomy.

Shri A. C. Guha (Barasat) This Act does not extend to Kashmir even though the Commission has its operation in Kashmir.

Shri K. D. Malaviya: But with their consent, it will not be difficult for us to get some opportunity to search for oil there if there are possibilities.

Now within these three years we have done some work. But we have

not done enough. There are two main reasons for that. The first is that we have not got adequate powers. I could go on illustrating and citing instances to show how absolutely imperative it is that we should have these powers, as soon as possible. As a matter of fact, when oil was discovered in Cambay in September 1958—about 11 months ago—we realised that we had come to a stage where we could no longer show any progress if we did not possess more powers. Somehow we managed to get a little power and we thought that, for the time being, it would suffice. But I was disappointed to find that the progress was not giving any encouragement to us. So we started giving attention to the question of converting the present Oil and Natural Gas Commission to a statutory corporation with much wider powers and less control from Government in its functioning.

Looking at the whole thing from the financial point of view, the magnitude of our programme will also be clear to you. The expenditure incurred on account of the Commission in 1956-57 was only roughly Rs 80 lakhs. In 1957-58 it was Rs 205 lakhs and in 1958-59 it was Rs 278 lakhs.

Now, in the current year, 1959-60, we have already provided for Rs 650 lakhs and by the end of the year, we think, the capital goods which will be available to us will require another Rs 600 lakhs. That is by the end of this year we may have to spend about Rs 12 crores.

Thus, in the last three years, so far as the financial implication is concerned our work has increased 12 times. So far the handling of technical personnel is concerned, it has increased by about 8 times.

When we started we had only 3 deep drills. Today we have 7 deep drills spread over the entire country. Now, the organisation of a drilling party is

a very intricate affair. Various types of technical programmes are handled by the drilling party and it is not always easy to get the work smoothly done if the officers are not authorised to change their orders and directions and modify the instructions from time to time. Sometimes, the entire drilling operation has to be changed

As an illustration I would like to describe the case of Jwalamukhi Well No 1. When we planned to drill Jwalamukhi Well No 1 we had thought that the whole thing would be over by about 11 months. So, we provided in our budget another sum of a crore of rupees for putting up Well No 2 in Jwalamukhi which would have been taken up only after the indication of results from Jwalamukhi Well No 1. Instead of 11 months, we have taken about 28 months to finish the well. Obviously the one crore of rupees that was budgeted for Well No 2 in Jwalamukhi was not taken up and the sum had to be surrendered. Obviously, we were blamed for having demanded more money than what was necessary. My colleague the Finance Minister, takes me to task for it for snatching away others' shares.

Such an eventuality can be avoided only when we have the authority to function within a particular allotment, and that should completely change the picture of allotment and the way in which that money has to be spent, if we had the power of reappropriation, changing from one set of work to another. You have to take all these factors into consideration and put up before the Finance Ministry such a budget as will ultimately have to be modified and reduced appreciably.

Even now we are not able to decide whether we shall put Well No 2 in Jwalamukhi or not although every day we are assured of Well No 1 in Jwalamukhi giving us great hopes.

Another illustration which I would like to give is this. When we started

our work in 1956-57, the Soviet experts recommended a programme to us. It is known as the Report of the Soviet experts on the task of oil gas prospecting and exploration in India during 1956-57. Here for 1956-61, a general outline of a programme was laid down, 4 or 5 lines of which I would like to read out. Of course, this report was drawn up about 6 years back. (*Interruptions*)

Shri Hem Barua (Gauhati) They drew up a programme for the Second Plan Period.

Shri K. D. Malaviya I am only referring to what was happening. They said

"During coming 5 years it will be best to concentrate attention in two States, Punjab and Rajasthan (Jaisalmer area) which are the most studied and where the prospects are encouraging. Simultaneously, it is essential to carry out geological and geophysical investigations as well as deep test drilling in the Ganga valley and West Bengal, geological and geophysical survey and core drilling in Cambay area, geophysical and geological investigations on the Madras coast. The latter four regions will constitute a reserve for extending the exploration during following years, and could compensate the first two regions in case of possible failures. The following are the main works for oil and gas prospecting and exploration during 1956-61."

The emphasis was more on Punjab and Jaisalmer area in 1956-57. What happened? When we started our drilling operations in Punjab we were very hopeful of getting some structures which would lead us further into the oil search programme in Punjab. The Hoshiarpur drilling operations were completed only recently and we are not very hopeful of finding any indication of oil or gas roundabout Hoshiarpur. In the last two years, we have had to change our

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total assessment, geological assessment of oil in the Punjab basin where we have been working and where it was recommended that we should work. We are still hopeful of the entire Punjab basin; we think that some day we are sure to find oil and gas there. Still, objectively the area which was recommended by the experts five or six years back is almost well nigh being abandoned. Similarly, in Jaisalmer also where we were very hopeful about 5-6 years ago, we have not made much progress and when we get some interesting horizons, we will continue to apply our energy. In between, when we have found oil in Cambay, the technical assessment was to be modified. The overall technical assessment of Cambay during those years was not very encouraging. It was only subsequently, in the year 1957-58, that the seismic investigations gave us lot of hopes in Cambay and the Oil and Natural Gas Commission decided and took a great risk in putting a hole in that area where seismic investigations have given us some encouragement. So, we have almost diverted or deviated from the experts' recommendations, although in consultation with them, because in all prospecting, no one knows and no one can say 'Do not do it here'. The moment you are encouraged by seismic investigations, there is no geologist who will come and say: 'Do not do it here'. The Oil and Natural Gas Commission decided to have such a deviation, a more or less big departure from the programme projected by the experts. We succeeded. The whole attention of the Commission was switched on to Cambay from certain other areas. I have said this to make out the point that the element of uncertainty is a very very important factor in oil prospecting. Therefore, any assessment that has to be made of the work done by this Commission must be made in this background that we live from month to month, quarter to quarter. A Commission that will be entrusted with the task of searching for oil must

have full powers, to change, shift and modify its programme in such a way that leads to expeditious discovery of oil or gas. That cannot be done under the framework and limitations under which a Government department suffers. We have to change but we cannot change because we are a Government department. We have to change into an autonomous organisation to produce results and to take responsibility.

The other element which is very necessary for the House to consider is that we are functioning in an atmosphere of competition. A certain amount of criticism was levelled against us a few months back by certain sections of the Press that we were too slow to function, that our costs were mounting up because certain things were done by a private concern much more expeditiously and that the difference was so much that perhaps an enquiry was needed or certain rustications were called for so far as this Commission was concerned. I was taken to task and was criticised for the inefficiency of the Commission. It is a fact that we did not function as expeditiously and as economically as we should have, and I must frankly admit to the House that if we have to function under these limitations we will continue to spend more money, take more time, give you less hopes. But, on the other hand, if we take more risks and deviate from the existing pattern of rules and regulations under which we are bound, then I have no doubt in my mind that we will effect economy, achieve greater results and also increase our efficiency.

Recently there was a break-down in our Cambay drilling operations. Previously also once or twice there were certain break downs in our work. We had to approach the Government for financial sanction of purchases in a big way. Obviously, it takes time for

examinations, scrutiny by my colleague the Finance Minister, and it is not always easy to convince the Finance Minister that I am right. Perhaps, generally I have to admit my mistakes so far as rules and regulations are concerned. So it takes time. Then the purchasing department comes, the construction department comes and for what could happen or what is generally achieved by the Standard Vacuum Oil Company in Bengal in ten to fifteen days we sometimes take three to four months to complete. In order to get the sanction for a small sum of Rs. 50,000 which could save perhaps Rs. 50,000 by way of salaries a day, we have to wait for ten to twenty days. It is inevitable, because the rules bind us

Therefore, if we have to function in this atmosphere of competition, if we have to show greater economy, then what is most necessary at this crucial stage, when we have discovered certain oil beyond expectation, in less time than what I had anticipated, and some gas in Jwalamukhi area—and this I realised four months back—is that we should have more power, we should transfer more power to the Oil and Natural Gas Commission. I was anxious, Sir, to introduce this Bill in the last session but it could not be done for obvious reasons, because things were being examined and I was myself not sure whether the Bill that we have produced could have been produced at that time. I took great care to examine all aspects of the Bill, and therefore we are already late by four months. I am therefore most anxious that our present Commission should be converted into a statutory corporation very soon, almost immediately, without any loss of time.

We are in a critical phase of our programme. We have already entered into a certain agreement for the purchase of equipment which took us about seven to eight months. We want to make very urgent purchases

very soon. I want to avoid all this loss of time. We want to get certain things manufactured in order to save drilling time at one well. We want to finish all this programme before the year ends, because some time back I promised that so far as the Cambay well is concerned—the unit structure in Cambay—we will be able to declare some results by the end of this year or by January 1960. Our well No. 2 has been completed, and if we do not get enough power and elasticity to function it may not be possible for us to put another seven or eight holes in that area and some more holes in the Surat area and Jwalamukhi area. Therefore, from the point of view that we have to compete in this free world and that we have to function more elaborately, and in a greater area and show some result if there is oil in this country, it is highly necessary that the House accepts the proposals that have been made in this Bill and without any loss of time gives the powers that are sought therein.

Our present difficulties are enormous. I need not refer to those difficulties and those headaches. But I only hope that most of them will be removed or a good part of them will be removed soon when we get these powers. As the House might have seen, the broad features of these proposals are to carry out geological and geophysical surveys for the exploration of mineral oil, drilling and other prospecting operations to prove and estimate the resources of mineral oil and carry out all such activities that will lead to the desired results, to produce oil and natural gas from such resources, refine the same and if necessary to set up or increase the pace of utilisation of oil and natural gas. Apart from such specific resources which will be provided in the discharge of the functions under the Act, the Commission shall be bound to abide by such directions as the Central Government may in writing or for reasons to be recorded make from time to time.

[Shri K. D. Malaviya]

I hope that the House will accept the proposals that I have made in this Bill and that we shall soon be enabled to start the work according to our proposals

Mr. Deputy-Speaker: Motion moved:

"That the Bill to provide for the establishment of a Commission for the development of petroleum resources and the production and sale of petroleum and petroleum products produced by it and for matters connected therewith, be taken into consideration"

Mr. Deputy-Speaker: Does Shri Naldurgkar want to move his amendment to refer the Bill to a Select Committee?

Shri Naldurgkar (Osmanabad): Yes, Sir

Mr. Deputy-Speaker: I shall give him an opportunity. Now, Shri Sarju Pandey—he is not moving his amendment. Yes, Shri Naldurgkar

Shri Naldurgkar: My Deputy-Speaker, Sir I welcome the introduction of this Bill because it is the first of its kind and a very important one. From the statement of the hon. Minister it is evident that with its voluminous work the size of the organisation has also increased. The activities of the organisation will also advance in future and therefore it is essential that such an enactment should be introduced and passed by this House. But there are certain clauses in which certain defects are inherent and it is essential

Mr. Deputy-Speaker: Before proceeding further, the hon. Member may make his motion and read out the names of Members that he wants to be included. Let us see whether they agree to it.

Shri Naldurgkar: I beg to move:

"That the Bill be referred to a Select Committee consisting of

Swami Ramananda Tirtha, Shri N. K. Pangarkar, Shri Harish Chandra Mathur, Shri Tayappa Hari Sonavane, Shri Shivram Rango Rane, Dr. Devrao Namdevrao Pathrikar Kamble, Shri Narayan Ganesh Goray, Shri Nath Pai, Shri Keshava Deva Malaviya, Shrimati Mafida Ahmed and Shri Venketrao Srinivasrao Naldurgkar, with instructions to report by the 1st September, 1959"

The Deputy Minister of Law (Shri Hajarnavis): Has the consent of the Members been obtained as the rule requires?

Mr. Deputy-Speaker: Has the consent of these Members who have been included, obtained?

Shri Naldurgkar: They have been included perhaps with the hope that they will agree. I have consulted some of them.

Shri Narayanankutty Menon (Trikandapuram): He has been kind enough not to include any Member from this side!

Mr. Deputy-Speaker: Has the consent of those Members been obtained?

Shri Naldurgkar: I have obtained the consent of some of them.

Mr. Deputy-Speaker: What about the others?

Shri Naldurgkar: I hope the others would not be disagreeable.

Mr. Deputy-Speaker: He only wants an opportunity to speak. I suppose let him proceed.

Shri Naldurgkar: This Bill is a very important one and there are certain clauses which require more clarification. I hope the hon. Minister will consider those matters.

I have spoken two or three times in this House stressing that while legislating any law, the House must be

more cautious and we should take care that we are not traversing beyond the limits of our legislative powers. It is curious to note that sometimes that collective wisdom of the two Houses is challenged by individual advocates before courts of law and some provisions are held *ultra vires*. So, I am of the opinion that every law which is enacted must be explanatory as well as explicit and unequivocal. Particularly the House must be cautious to avoid what we call delegated power.

*I am afraid that clause 26 read with clause 3 will be *ultra vires* of the powers of this House. Clause 26 reads thus:

"The Commission may, by general or special order in writing, direct that all or any of the powers or duties which may be exercised or discharged by it shall, in such circumstances and under such conditions, if any, as may be specified in the order, be exercised or discharged also by any person specified in this behalf in the order."

According to clause 3, we have delegated the power to the Central Government for the constitution of the Board. Clause 3 reads thus:

"With effect from such date as the Central Government may, by notification in the Official Gazette, appoint in this behalf, there shall be established a Commission to be called the Oil and Natural Gas Commission."

So, it is quite clear that according to clause 3, the power of forming or establishing the Commission is vested with the Central Government only. So, the Commission is the creation of the Central Government. Now, when we are giving certain definite powers to the Central Government, again we are delegating the same powers to another body that is created by the Central Government. This doctrine of delegated legislation has been viewed with reprobation by judicial decisions.

I may refer to Basu's *The Constitution of India*, page 246, where it is said:

"No legislative order can delegate to another department of the Government or to any other authority the power either generally or specially to enact laws. The reason is found in the very existence of its own powers. This high prerogative has been entrusted to its own wisdom, judgment, and patriotism and not to those of other persons and it will act *ultra vires* if it undertakes to delegate the trust instead of executing it."

What is the criteria to decide whether a certain power is delegated or not? Basu says:

"The true distinction, therefore, is between delegation of power to make the law, which necessarily involves a discretion as to what it shall be and conferring authority or discretion as to its execution."

Therefore, in this case, if the power of constitution or power of forming the Oil and Natural Gas Commission is vested with the Central Government the interpretation of clause 26 will be that the Commission also is vested with the power to create another commission. These words are very important.

17 hrs.

Shri Hem Barua: May I know the time allotted for the general discussion and the time for clause by clause consideration? Do you propose to increase the time?

Mr. Deputy-Speaker: We have to feel that there is some necessity. Then only it can be considered.

Shri Narayanankutty Menon: May I know the time for general discussion?

Mr. Deputy-Speaker: We have allotted four hours in all. I think we can divide it into 3 hours and 1 hour.

Shri Narayanankutty Menon: That will be all right.

Mr. Deputy-Speaker: Is the hon. Member likely to take long?

Shri Naldurgkar: Yes, I will take more time.

Mr. Deputy-Speaker: In that case he might continue tomorrow.

17.52 hrs.

The Lok Sabha then adjourned till Eleven of the Clock on Thursday, August 13, 1959/Sravana 23, 1931 (Saka).