

Mr. Speaker: It was postponed yesterday. (Interruption). The hon. Minister will consider that matter. Whatever is postponed from one day will be given top priority in the next week.

Shri Harish Chandra Mathur: That should be given top priority.

Shri Braj Raj Singh (Ferozabad): What has happened to the sugar-cane price motion? We understood that it was to be taken up next week.

Mr. Speaker: Let us see.

12.19 hrs.

INTERNATIONAL MONETARY FUND AND BANK (AMENDMENT) BILL—contd

Mr. Speaker: The House will now take up further consideration of the following motion moved by Shrimati Tarkeshwari Sinha on the 20th August, 1959, namely,

"That the Bill further to amend the International Monetary Fund and Bank Ordinance, 1945, be taken into consideration."

The hon. Minister may continue her speech.

The Deputy Minister of Finance (Shrimati Tarkeshwari Sinha): Sir, may I just read a few sentences, with your permission to establish the link with the previous day's remarks which I have already made?

"Recently, it became clear " Continuing my speech I was referring to the necessity of the World Bank fund being increased and our contribution to the International Monetary Fund being raised because of the need for more money with that international agency to advance loans for the under-developed countries.

Now, coming to the Bill, we find it became clear that the resources of the Bank were likely to become inadequate in the not distant future. The capital needs of under-developed

countries have increased with the rising tempo of their development programmes. Currently, the Bank is lending at a rate of 700 to 800 million dollars a year. Its borrowings in the last year amounted to 650 million dollars and if it is to continue to serve its purpose, as it has so admirably done in the recent past, it may have to borrow even larger amounts in future years. But favourable response to its efforts to borrow increasingly larger amounts in future years will depend on prospective investors being convinced that the Bonds of the Bank will continue to be of the same financial strength as before. In the considered judgment of the management of the Bank which has received the acceptance of its Board of Governors, with the continuance of its present scale of operations, the Bank's borrowings are likely, within a few years, to reach the limit to which these are backed by guarantees, namely the 80 per cent uncalled portion of its capital stock.

In order to enable the Bank to continue its operations at the present growing tempo, the Board of Governors, at its 12th annual meeting in New Delhi, considered it necessary to augment its resources, and asked the Executive Directors to formulate concrete proposals for the purpose. The Board of Executive Directors accordingly examined the matter carefully and recommended an increase in the authorised capital of the Bank from the present \$10 billion to \$21 billion, involving a general 100 per cent increase in the subscription of all member Governments. The Government of India are in accord with this recommendation, as the increase in capital will give renewed assurance to investors that the Bank's bonds will continue to be of the same high quality and will provide the basis for continued favourable reception of the Bank's securities. The Board of Governors has since unanimously approved of this proposal.

The general 100 per cent increase in the subscriptions will more than double the security behind the Bank's

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bonds Under the proposal of the Executive Directors, which has met with the approval of the Governors, the Bank will not call up any part of the increased capital subscriptions, unless it is necessary to do so to meet the obligations of the Bank. In other words, unlike the original subscriptions to the Bank, no part of the additional capital will be called up for use in the Bank's operations. Thus the additional subscriptions will remain wholly 'uncalled' and enhance the guaranteeing ability of the Bank to raise money from the world's capital markets.

The acceptance of the proposal for a general 100 per cent. increase in the subscriptions of member-Governments to the capital stock of the Bank raises India's subscription to the Bank from \$400 million to 800 million dollars. But, no payment is required to be made on account of this increase in view of the decision that this additional subscription should remain uncalled. However, one thing is very necessary and that is our consent to the increase in the subscriptions. It amounts to a contingent liability, as in the unlikely event of any incapacity on the part of the Bank to discharge its obligations from its normal resources, member-countries may be required to meet them through calls on the thereto before uncalled portions of their subscription.

12.24 hrs

[SHRI MOHAMMED IMAM in the Chair]

The International Bank and Fund Ordinance 1945, as Members are aware, was promulgated to implement the Articles of Agreement of the International Bank for Reconstruction and Development and the International Monetary Fund of which India is a founder-member. This Ordinance is still in force. Section 2(1)(a) of the Ordinance requires the Central Government to pay out of Central revenues such sums as may from time to time be required for the purpose of paying India's original quota in the

International Monetary Fund and its initial subscription to the capital stock of the International Bank. The section also requires the Central Government to make subscription towards an increase in the quota in the IMF. The Ordinance, however, contains no provision empowering the Central Government to subscribe towards additional shares in respect of an increase in the authorised capital stock of the Bank. Legislative authority is, therefore, necessary to an increase in India's subscription on account of an increase in the authorised capital stock of the Bank. Clause 4(u) of the Bill seeks this authority. Opportunity is also being taken to convert the Ordinance into an Act. The Bill is thus a simple piece of legislation. May I express the hope that the House will have little hesitation in enacting it? I move

Mr Chairman Motion moved

"That the Bill further to amend the International Monetary Fund and Bank Ordinance, 1945 be taken into consideration."

Shri Mahanty (Dhenkanal) Mr Chairman the hon Minister has characterised this Bill as very simple measure. Indeed, nothing could be a simpler measure than the Bill that she has introduced in this House. But, with all humility may I venture to say that this is a piece of legislative enormity which really I could not imagine that should be brought before this House in the manner in which it has been introduced. What is the genesis of this Bill? In 1945, two years before India achieved its independence, the Governor General was pleased to issue an Ordinance in December 1945 under section 72 of the IX Schedule of the Government of India Act, 1935. It is better I read out section 72 of the IX Schedule. It says that the Governor General can issue an Ordinance for the good governance of British India or any part thereof. In all humility, I would like to know how an Ordinance for contri-

buting funds to the International Monetary Bank could come under the classification of good administration of India as contemplated in section 72 of the IX Schedule of the Government of India Act of 1935.

Section 72 of the IX schedule under which this Ordinance was issued says

"The Governor General may, in case of emergency, make and promulgate Ordinance for the peace and good government of British India or any part thereof"

In the first place, I would like to know under what propriety an Ordinance could be issued for this by the Governor General under section 72 of the IX Schedule of the Government of India Act, 1935, and how our contribution to the International Monetary Bank will contribute to the good government of British India. Be that as it may, even this section stipulates—it is mandatory in character—that this should have been regularised in a period of six weeks. Nothing was done. The hon Minister is coming to this House after 14 years to validate an Ordinance which was promulgated by the Governor General. One has to go to the archives of the National Museum to find what was working in the mind of the Government of India, what was in the back of their mind to have promulgated this Ordinance in that period. We would like to know what the Government of India has been doing all these years. It is true, subsequently, I think, after a lapse of one or two years, the then Assembly had approved of the Ordinance. Approval of the Ordinance does not take away the mandatory provision to enact a piece of legislation as is sought to be done now. I would, therefore, in all humility venture to request the hon Minister, if she cares to listen

Shrimati Tarkeshwari Sinha: I am listening

Shri Mahanty: .to take back this Bill and come to this House, without any reference to that kind of Ordinance, with a Bill for contributing 800 million dollars. Nothing will

be lost. But, if we are asked to approve of the Bill in the form in which it has been introduced, the Government with the backing of the majority may get it passed; but, let me warn this House, it will be a legislative enormity and it will be a violation of the very concepts of the Indian Constitution. It will be putting a premium on legislative lawlessness that is pervading in the Government of India.

There is another aspect to which I would like to invite the critical attention of the House. It concerns the functions of the Bank. It is true, India is one of the five Members of the Executive Board. It is true we have got so far about 572 million dollars, if I am correct, from this particular Bank. But I venture to think that the sympathies of this Bank are much too lop-sided. They are lop-sided so far as the private sector is concerned. If we look at the functioning of this Bank, it stipulates:

"The Bank is not intended to provide the external financing required for all meritorious projects of reconstruction and development, but to provide a catalyst by which production may be generally stimulated and private investment encouraged"

I readily concede that so far as the railways, the ports and many other projects in the public sector, not of a productive nature, are concerned, they have received loans from this Bank. A substantial share has come to the Tatas and to Indian Iron and Steel. I do not grudge the good fortune of the Tatas. They have got their own way with the Party in power. Therefore it is only natural that the Party in power will always wish well of Tatas. But I ask why should the Tatas be patronised at the cost of the Indian Taxpayer? Out of \$572 million, the Tatas have got \$133.5 million. Out of the total loan that has been granted to various concerns, public and private, the Tatas alone have got \$133.5 million and the Indian Iron and Steel Company have got \$51.5 million. I am not very good in arithmetic. The hon.

[Shri Mahanty]

Finance Minister may work out what percentage it comes to. But I would like to ask this House a question, and it is for the hon. Minister to reply—are we going to contribute to this Fund for the benefit of one or two industrial houses of this country? Are we going to be told that there are no other industrialists barring Tatas and Indian Iron people who, incidentally have contributed Rs. 1 million each to the Congress election fund?

Then I come to another matter which has got a very important bearing on this issue. All these loans have been issued under the guarantee of the Government of India. I hope the hon. Deputy Minister will not contradict the fact that the Government of India in all these cases have always guaranteed the loans to the Tatas and Indian Iron and Steel Company. I would like to know from the Finance Minister what legal and constitutional propriety was there in guaranteeing loans to private concerns without taking the consent of this Parliament. If Parliament is going to function as a sovereign body,—it is no good saying that they have done it merely by executive fiat—if Parliament is going to sanction the allotment of funds to the IMF, then Parliament is within its rights to see how the funds of this Bank are being put to use. I hope the hon. Minister will lend some constructive thought to this suggestion. Nothing is going to be lost. Neither the Tatas nor the Indian Iron and Steel people are going to lose anything. They are going to get the loans all right. But in all propriety, Parliament should be kept informed about it. Parliament should also be asked to offer its views before Government guarantee such loans.

Then I come to my last point. In India, we are in a peculiar context of developmental economy. We know how many of our projects, however meritorious they may be, are thirsting for funds, how they are being thwarted, how they are being held up. In this particular context, why should the Government of India so arrange

things that the private sector should get more such help from the IMF whereas our own projects are languishing for lack of funds?

With these few and brief remarks, I once again make an appeal to the hon. Minister. It is not a question of opposing or supporting the Bill. I quite concede that the Bill is unexceptionable so far as the principle is concerned, but so far as the procedure is concerned, it is a piece of uncouth violation of all the parliamentary concepts which we have accepted or to which we have given our assent in our Constitution. Let the hon. Minister withdraw this Bill. Nothing is going to be lost. Let them frame another Bill and come to the House whereby we can make provision for a contribution of \$800 million to the IMF. With these words I resume my seat.

Shri Nagi Reddy (Anantapur). I have tried to understand the scope and purpose of this Bank from the speech that has been delivered on behalf of Government by the Deputy Minister. This is the first time we have been discussing our connection with this Bank and we expected a declaration as to how far our relation with this Bank is going to help us in our progress towards a socialist pattern of society in accordance with our objective. Of course it looks as though on the face of it, the Bill is very innocent and therefore, there is nothing much to discuss about it, it is so innocent that we can accept it, on the face of it. But with the experience of the past 15 years of the functioning of this Bank and our relation with it, I must say at the very outset that I am opposed in principle to the acceptance of this Bill and I am opposed in principle to the principles that have been declared by the International Bank for Reconstruction and Development. Therefore, this Bill, as it has been placed before us, should be rejected outright.

We have been told that the capital needs of under-developed countries have increased with the rising tempo

of their developmental programmes. Therefore, we are told, currently, the Bank is lending \$700 million to \$800 million. I would say that this is not the whole truth behind the lending of \$700—\$800 million to other countries. Even though the Bank was founded in 1945, actual lending by this Bank to under-developed countries, and mostly to our own country—if we take into account facts—began in 1957. Before 1957, our own country did not take much from the Bank. We had to hurry to the Bank after 1957, not because of the rising tempo of our developmental programmes but because of the rising tempo of the cyclical crisis of the capitalist society. To avoid the immensity of the crisis that has been facing us, we had to run to the World Bank to save us from the clutches, which are in the very nature of capitalist society, into which we have fallen. Therefore, the way in which the Bill has been proposed, as though we are now regulating it and trying to have closer co-operation with the World Bank because of the rising tempo of developmental activities and programmes is not a fact. Actually on a world-wide scale and internally in our own country we do know, on the basis of facts that we have had to revise our Second Plan twice, and that the development activities in our country, if they have not come to a dead stop, have not been proceeding at the same rate and tempo as in the previous years. One thing has become clear that the main trouble with the under-developed countries in these three years has been in its foreign trade loss due to the fall in the prices of the primary products that the under-developed countries have been exporting and, at the same time, the rise in the prices of the capital goods that they have been importing. This is the crux of the problem. This is exactly the reason why the developmental activities of all under-developed countries in general, and of India in particular have been facing difficulties.

We have been told that since the nature of the Bank's operations

requires the repayment of loans in the currency lent, it has to form an assessment of the balance of payments prospects and of other factors bearing on the borrowing country's ability to earn adequate amounts of foreign exchange before any new loan can be made. That is one of the principles on the basis of which, we are told, this International Bank functions.

Last year, after the Bank's conference was held in Delhi, there were quite a number of questions asked on the floor of this House to which no reply was given by the Finance Minister. The major question which was asked and asked pointedly many times was what exactly is the attitude of the Bank to the falling proceeds of the exports from India as in the case of other under-developed countries which is leading us to greater and greater financial troubles. Because of this all the flow of loans and aids that are coming from the western countries is almost offset by the foreign exchange crisis that we are facing. What exactly is the position of the Bank in relation to this? What is the attitude of the Bank? It is very easy to give.

I think it was Mr Eugene Black that once said that there should be more exports from under-developed countries to the other countries and we should export different kinds of materials and not fall back on only 2 or 3, but should more and more diversify our exports. It is very easy to talk all that. But for diversifying the exports industrialisation is necessary, and for industrialisation of the country the foreign exchange crisis must be resolved. This looks a kind of vicious circle.

What is the reply of the Bank and what is the help that this Bank is giving to the under-developed countries to resolve this vicious circle of the capitalist society into which we have fallen because our connections are mainly with the capitalist countries. In comparison with our relations with the capitalist countries, our

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relations with the socialist countries, which do not have this cyclical crisis, are very meagre.

Without replying to this and without taking note of this point, for the Deputy Minister and the Government to come and say that the capital needs of under-developed countries have been increasing these few years—these two or three years and therefore it has begun to lend and it has become necessary to lend, is not right. The Bank is not lending for the development of the under-developed countries, but it is lending money to resolve this foreign exchange crisis. We all know that there has been a dead stop in the progress of under-developed countries including India because we are unable to take any new major project because of this crisis.

What is this Bank and how does it work? I oppose this Bill for a second reason and it is this. This Bank consciously tries to attack the socialist pattern of society which we have already declared as our objective. It intrudes. I should say it has become a super-Government over our Government. I am not saying this without any basis. They come and check our policies. They go into our economic policies and say whether they are good or bad. They are a super-Government over the Government of India.

Look at what Mr Eugene Black says in the Annual Number of *Commerce*

“When new lending is under consideration, it undertakes a revision of the country's economic situation and of the Government's economic policies in so far as they affect repayment prospects”

That means that before any new loan is given to the Government of India or to any under-developed country in the world it undertakes

as its own responsibility a revision of the country's economic situation, Not only that. It does not stop with that; it goes further. It undertakes a revision of Government's economic policies. Therefore, this Bill is not innocent. At least it is not as innocent as the Deputy Minister tried to make it to be. She did not give us the truth of the actual connection between the Government of India and the Bank which is creating a lot of doubts in the public mind as to what this Bank is and what its relationship with the Finance Department is, what this Bank is asking us to do and what we have promised to the Bank.

The Bank had sent a Mission to India to study the progress made under the Second Five Year Plan. The Bank has given suggestions to the Government of India that its “efforts henceforth should be concentrated upon completing the projects in progress before any large new investments are embarked upon”

This declaration of Mr Eugene Black—there is nothing secret about it—is to tell us plainly, ‘Stop your progress for the present, put an end to that, you have progressed enough especially in the public sector. Now stop your progress in the public sector and let us be offering what we can to the private sector’ I would like to ask with what authority does this man from a foreign country send a Mission to study the progress made under our Second Five Year Plan and then tell us that we should now stop further increase in new investments and concentrate on old investments.

Shrimati Tarakeshwari Sinha: We have asked for their opinion. They have not given their opinion without being asked.

Shri Nagi Reddy: And, without asking, they have been giving opinions of a different type (*Interrupted*).

tions). We have always called them to give their opinion. (Interruptions).

They say that the State has played a vital role in stimulating the progress of economic development so far and now the process is under way. What should we do? We are told that "the Government would be well advised to avoid assuming new responsibility especially so far as investment in industry and mining is concerned."

This is foreign capital speaking through the mouth of the International organisation. We know that from day to day immense pressure is being brought to bear on the Government of India that even the oil industry should be handed over to them if India were to progress faster. Here is a Bank calling itself international coming forward to tell us that the Government of India should not assume any more new responsibilities, especially so, in relation to mining and industries. It is because of these things that the country has got a bit perturbed.

An announcement was made from New York on March 19, 1959. On March 18 of this year, in the statement of the World Bank spokesman after the meeting of the 5 creditor countries of India, it was said that "India would continue to pursue the economic and other policies which had been discussed at the August meeting."

What are these policies? Why is it that Parliament has not been taken into confidence and told what policies were discussed in the August meeting? How is it that the Finance Minister has failed to make a statement here as to what guarantees have been given to the World Bank in the August meeting? Is it because the Finance Ministry has accepted every sentence of the report of the World Bank which talked of cutting short all the development programme in the public sector. Or, is it because the Finance Minister was afraid to

face the country with the truth? I am not the only person who is worried about it. The *Economic Weekly* of Bombay in its March 21st issue has questioned the Government's sincerity and condemns its failure to tell the truth to the people. They would say: the communists of course are always attacking the Government, good or bad you would attack us and therefore, your worry is not ours. But the worry caused by this particular statement is expressed by this magazine which is almost as bourgeois as my friend on the other side. This is what it says.

"The fact is, and we better face it, that foreign aid has exerted pressures on us and has influenced our domestic policies, in spite of what Pandit Nehru may say. True, Pandit Nehru may not be aware of it, but it is no secret that those who are in charge of aid negotiations abroad often give quite a distressing interpretation of our domestic policies to create a favourable climate to ask for more aid. Why we insist on planning and why we want an expanding public sector, such inconvenient questions are either brushed aside or dismissed as concessions to politics. 'We too have our politicians', that sort of thing goes down very well with Americans. Double talk seems to be justified, if it gets us the dollars."

Why they don't take us into confidence as to what type of negotiations are being carried on; what terms are being given and what questions are being asked and whether this International Bank is not bringing pressure on the Government of India and the people to change our policies from the declaration of the Congress Party about the socialist pattern of society, to strengthen the monopoly of capitalists in the country. That is exactly what the bank wants. Shri Mahanty has given us an idea as to how the

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Bank has functioned. Most of the loans that have been given for the industrial development are in the private sector and only such kinds of loans have been given to the Government which would help the development of the private sector in the future—overheads, as they are called in the economic term, overheads which are needed for the development of the private sector. It refuses to give loans on other projects; it has not given a single pie for any development of industries in the public sector.

Their intervention is of a serious type. It is not only telling us that we should concentrate on from a high pedestal. They say that the Central Government is so weak today that the State Governments come and press it for an industry here or an industry there and so it falls a prey to them and that is very bad; it should be influenced by the great men of the International Bank and not by the small State Governments. They say: do not get influenced by the State Governments. This is what they say:

"The experience of the last two years has revealed serious deficiencies in the organisation for planning in the Centre. The economic decisions have at times been unduly influenced by pressures from the State Governments."

This is a super-Government functioning over the head of our Government. This is humiliating and it goes on from year after year and it is impossible to keep one's mouth shut when this goes on and when our Government does not take Parliament into confidence.

Now, what is the Bank's idea about reducing inequalities and about the taxation policies?

"Government's policy of progressively reducing inequalities of

income and wealth, if carried beyond a certain point, may be difficult to reconcile with the aim of rapid economic development. This policy, which operates mainly through high marginal rates of direct taxation and through limitations in salaries of public employees "

They criticise this policy: it looks as though the Forum of Free Enterprise is speaking from America through the mouth of this bank. It is criticised as discouraging private foreign investment.

Therefore, this Bank is the mechanism through which the foreign monopolists are trying to get control over the Indian industrial investment. This bank is the link between the world monopoly and certain sections of the Indian monopoly and so it is not in our interest and in the interest of the further development of the country that we should pass this Bill without further explanation from the Government as to what is actually happening in our relation with this Bank.

Their aid to the projects is subject to certain conditions. It has been very clearly stated.

"It is recommended that subject to achieving appropriate understandings with the Indian Government on its economic and financial policies, the bank should be prepared to continue its participation in financing India's development programme. The Bank's first step, therefore, should be to explore the possibilities for such a programme."

Has the Finance Ministry explored such a programme? If so, what is that programme? Is it prepared to take the country into confidence and tell us what exactly is the programme which this Bank talks about? I charge this Ministry for keeping silent for far too long in the nefarious

deals with this Bank. I can only wish that they can come out and speak the truth in open.

Now, it has not left us with the Second Plan. The Bank seems to be much more anxious about the Third Plan and has told us that we shall not proceed much farther than what it has gone. It has come forward to influence the policies of the Government of India and has told us: "No further public enterprises except in those items such as hydro-electric projects, railways, ports, etc. but not in building up the heavy machine building factories and so forth." It is trying to stop development of industrialisation by public enterprises. Is it not a fact that it has been trying to do so? If it is so, what is the policy of the Government of India?

13 hrs.

In the end, I would only give a solemn warning. We are being tied up through the loans which are not productive to the International Bank and international financiers. Already the loans that we have got from them, from different sectors of international finance and western countries, are mainly for wheat or for the railways or for the "jet age", as it is called, for the development of our Air-India International—what a great productive scheme it is! It is for such things that India is trying to mortgage its economic independence to those of the west. This certainly is not the way of progress for the country. Unless we make a demarcation and be clear as to what our aims are and what our aims should be nothing can be done so far as further development of the nation is concerned.

Their rates are high. Their conditions are, I should say, very severe. Their loans are not for developmental projects or industries. Therefore, till the Parliament is given a complete picture of the role that the Finance Department is playing with the International Bank, and the Parliament is taken into confidence as to what

the Finance Ministry thinks in terms of the development of public enterprises in our country in relation to private enterprises, I think, Sir, this Bill is a very dangerous Bill. Therefore, it is that the Government of India has more and more been giving licences to 100 per cent foreign capital investment in our country. What happened to our Industrial Policy Resolution? So, Sir, this Bank has played a very nefarious role in the economic development of our nation and this should not be allowed to be continued.

Shri Shankaraiya (Mysore) Sir, the Bill is a very simple one and there is no dispute about it.

Shri Tyagi (Dehra Dun): As simple as the Minister herself.

Shrimati Tarkeshwari Sinha: But he does not accept that.

Shri Shankaraiya: The object of the Bill is to increase the capital of the International Bank as per the decision of the Directors or the Governors therein, so that they may be able to borrow more money for the purpose of advancing to member countries, and also to see that underdeveloped countries are being financed. Of course, it is a laudable object, and India is able to a very great extent benefited by this. Being a founder-member of this Bank, India has played a very important role. India has taken loans.

Just now Shri Nagi Reddy raised an objection that the benefits have gone more and more to the private sector than to the public sector. Of course, it may have been so but, nevertheless, the benefit goes to the whole of India. I do not want to go into the question as to what should be the relationship between the private sector and the public sector. The disharmony that has been prevailing there should go. But taking an overall picture, any amount of loan that is advanced either to the private sector or to the public sector

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will ultimately go to the development of this country, and to that extent India will develop. As regards private sector and public sector, it is an internal question, an internal policy which we can adjust ourselves. That is a matter between us, but on account of this reason we should not forego the benefits that we are going to derive out of this International Bank. To that extent the object is laudable.

But my one fear is this. Of course, the International Bank and the Monetary Fund try to enhance their capital to the extent of 100 per cent and India is contributing her share of 400 million dollars more. This decision, if I remember correctly, to raise the capital was taken during last December. While taking this decision they had taken an overall picture of the under-developed countries in the whole world, who are all the developed countries, who are all the countries that have got surplus capital and who can spare capital and income to contribute to this Bank and so on. After taking all those things into account they have come to this conclusion that the capital of the International Bank should be doubled. But of late there has been a feeling or there has been a move from the bigger countries, who are members of the International Bank also, to the effect of starting another institution parallel to this one. The other day we read in the papers a suggestion that some member-countries should form into an association or form another bank or an institution and contribute their surplus amounts for purposes of advancing to the under-developed countries. As I said, the decision to raise the capital of the International Bank was taken last December. Subsequently, about a month or 15 days back, the President of America made a statement that another fund should be started, particularly, with the same object and reason.

If different institutions are likely to be started and encouraged by member-countries, I think it will lead to an unhealthy atmosphere in the international sphere particularly in the field of finance. I shall explain it. If the International Bank, the main Bank, the original Bank as it is, were to take some decision with regard to advancing loans to member-countries, if they were to come to the conclusion either to give a loan or not to give a loan, there is the other institution to take advantage of this decision.

My fear is, if two or three institutions of this kind are likely to be started, a sort of a political string is likely to be introduced in the long run so that in advancing these moneys they will have the upper hand, particularly those who have contributed more capital. The under-developed countries are obliged to borrow money and they have to be guided by the conditions and other impositions. Naturally, it leads to indirectly putting in their political strings.

Therefore, if the decision to raise the capital by 100 per cent so that under-developed countries may be given advances was taken after taking into account the overall situation and the world picture as a whole, why should there be another institution? No doubt, India has to contribute and should continue in it, but I think, at the same time, the opinion of India is called for. Some of the major countries are trying to think on these lines. Since it will work as a great hardship to the under-developed countries, since it will lead to competition, since it will try to introduce more political strings into the affairs of a State, I think that question has to be examined seriously and I hope the hon. Deputy Minister will explain the position in her reply.

Shrimati Tarkeshwari Sinha: Sir, I am very grateful and thankful to the House for more or less giving sup-

port to this measure. The hon. Members who participated in the debate, two of them, have agreed on the principles and the working of the Bank, but they have made certain points which I would like to reply just now.

The hon. Member from the Communist Party doubted the very principle of the Bank, not only in respect of lending but as an institution itself. I do not specialise, Sir, in the shrewish language that he used all the time, but I will try to answer his points by certain facts which I have before me. I do not know whether he wanted to be more effective by using that language, but I can assure him that it has not created any effect or any reaction on me. I thought that the hon. Member, when he came before the House to speak on this and doubted the very basis of the World Bank and the International Monetary Fund institutions, would take at least this precaution of looking to the character of the loans that have been advanced so far to various countries. In my speech, Sir, I made this point clear that out of the 44 countries to which the World Bank has advanced loans India has been the largest beneficiary. We have secured so far 23 loans totalling 592 million dollars. For his interest and for the interest of the House—though it is not really to the point of my debate here—I would like to mention the figures of loans that various other under-developed countries have got, and which may be interesting. I would like to name some of them: Burma has taken 19.35 million dollars, Ceylon, 24.77 million dollars, India, as I said, has taken 592.1 million dollars; Iran, 147 million dollars; Pakistan, 126.45 million dollars; Philippines, 18.50 million dollars; Malaya, 35.60 million dollars. This is the account of the various other countries. I would not take the time of the House in giving all the details about all the other countries. But from the figures it seems that India has been the largest beneficiary of these loans. So, it does not really become us to say that we

are being exploited. I think if one country is to be grateful to this institution for helping us in our financial crisis, it is we. I would expect the hon. Member to forget the political party to which he belongs and as an economist and as a person who is interested in the economy of the country he would at least care to understand and interpret the basic principles of these things and not try to make political capital of them in his argument. I have much more faith and respect for the hon. Member's knowledge of economics but I am afraid he does not want to make use of that knowledge.

Then, the hon. Member made a second point, and that is, why the World Bank always comes here and assesses our economic conditions. Of course, it is not the business of the World Bank to advise us on our economic policies; they never do that, when we do not ask them to give us some report or something. But as a financial institution, we have full faith in them and they also think it proper and it is very necessary for them that, if we ask for their assessment, they should come forward and give their assistance because they have got their agencies to make a specialised study of the economy of countries. Therefore, sometimes we have asked for their help and they have extended to us their help, and we are very grateful to them for that.

Secondly, as a student of economics, may I ask the hon. Member, is it not really the responsibility of an institution which lends you money to see how the money is going to be spent, and for what purpose that money is going to be spent? An institution or an agency or a person who advances a loan or money to a different institution or to a different person has, I think, as a giver, the right to assess and see whether the loan is spent in proper channel or whether it is spent for the purpose for which it is earmarked.

[Shrimati Tarkeshwari Sinha]

Again, it is not for the benefit alone of other countries for which they give loans; it is indeed for their own very existence that they want to have their assessment, and if the World Bank has made those assessments, I think they have been not only benefited but something more. The other countries have a duty to thank the World Bank and we really acknowledge it. It is a fact that we have also derived a lot of benefit by the information which they have collected for their own use. It may be for their own use but we have also been as much beneficiaries as the World Bank itself, because we have to realise this, that some time it is better to see our country from the other man's—not point of view, but—vision and to know how other people react to certain situations. Sometimes we are so subjective of our own things that we never realise the whole objectivity. Sometimes we forget; sometimes we do not realise the proper perspective of a thing. I therefore think that it is better for us to know what the other people and other institutions who have specialised knowledge over these things say about our proposals and think about our economy. I think one should be modest as to realise that we have not got the monopoly of all the knowledge in the world. We must have that modesty to feel that we also can be enlightened by certain other institutions and certain other things followed by other countries in the world, and it can be an education for us to know how things stand at present.

Therefore, I think that these are benefits of the World Bank which cannot be measured in rupees, annas and pies or in dollars but what can be measured in time of the knowledge given by the specialised agencies for the general economy of the world. Sir, I feel that the hon. Member perhaps does not think of that, really in his mind, but it seems he has more faith in his party than his own self.

It is good for his party but not good for him.

Shri Nagi Reddy: Both.

Shrimati Tarkeshwari Sinha: I think as an economist he does realise that this is a very necessary part of the World Bank's activities.

Now, I come to the other charge that he has levied on the World Bank, namely, that the Bank is having a conspiracy to boost up the private sector all over the world. Other countries may be following different policies. I have nothing to argue about it. The respective countries in the world have their own respective ways of following a certain economic policy, and we are not going to bother about that here. We follow our own policy. But we believe in the mixed economy and we have not disqualified the private sector completely from our economic sphere. I would like to mention few figures for the knowledge of the hon. Member. When he says that the World Bank specialises in a conspiracy against the public sector I refute that charge; I strongly refute that charge, because I have got the figures which cannot be challenged either by the hon. Member or by his party. Out of the total loan, 44 per cent has gone to the railways.

Shri Nagi Reddy: I accepted that.

Shrimati Tarkeshwari Sinha: Even then the hon. Member made a charge against us.

Shri Nagi Reddy: I mean industrialisation of the country. I do not say that they have not given help to the railways or the D.V.C. and so on and so forth. I had specifically mentioned the public sector industries.

Shrimati Tarkeshwari Sinha: I am coming to the public sector. I would ask for the indulgence of the hon. Member which he sometimes shows for me and I am slowly trying to

cover all the points that have been raised. To public sector industries they have advanced 64 per cent of the loans. But we cannot discriminate. The need of a particular sphere or particular activity may be too wide, and it may take all the loans, as for instance, the railways have the biggest share of the loan. I do not think the hon Member grudges it. We needed money as loan for the railways and we got it. But the total amount of loan in the public sector is 64 per cent and in the private sector, 36 per cent. That I think covers the hon Member's argument which he indulged in. He said that there was a conspiracy. It is not a fact. They have not disqualified the private sector from the orbit of their activities. We have not disqualified the private sector from the help to be given in respect of their economic activities. We are as much keen to help the private sector as we are to help the public sector. Therefore, his argument does not hold much ground.

13 18 hrs

[MR DEPUTY SPEAKER in the Chair]

Then, the hon Member tried to create an impression in this House that there was some conspiracy during the World Bank Conference. I think it was as open to the public as to any board of governors of the World Bank. The hon Member did not avail himself of the opportunity of attending the World Bank Conference, thinking perhaps that it was a body of untouchables. It was not confined to the board of governors of the Bank. All the people, the laymen, who were interested in the World Bank proceedings had free access to attend the Conference. It was open to the public. It was not held in camera. So, I am sorry for the hon Member as he had missed the opportunity. The Conference was held in Delhi and therefore those people who had no opportunity of knowing the activities of the Bank could have attended it. Perhaps the hon Member and some others did not want to have the opportunity of

knowing about the World Bank's activities. I am sorry for him. He missed the bus. But he objects to the steps taken. I cannot understand that. The people who attended the Conference have known what happened there, and if the proceedings are made known to Parliament, as to what happened there, I do not know why he grudges that. Perhaps, if he had attended, he would not have said "This was passed at the Conference and this was not made clear, or was not given to Parliament" or something like that. I fully agree with him when he says that we have no right to hide anything from Parliament and we should not keep Parliament in the dark.

Shri Nagi Reddy: On a point of explanation. There was a question here regarding the report that was discussed in the World Bank Conference. The Finance Minister, in answer to one of the questions, said that the report was a document only meant for the members of the World Bank and cannot be placed on the Table of the House or in the Library. Will the hon Minister give us a chance to look through that particular report?

Shrimati Tarkeshwari Sinha: My senior colleagues have created enough precedents as to what documents are to be shown to Parliament and what documents should not be shown. I do not want to add my knowledge to it. So, the hon Member will have to be satisfied as to what can be given to Parliament in public interest.

Shri Nagi Reddy: I have got a copy of it.

Shrimati Tarkeshwari Sinha: I know that the hon Member specialises in getting documents which are not meant for them to see.

Shri C. K. Bhattacharya (West Dmajpur): And on that they put questions!

Shrimati Tarkeshwari Sinha: I do not specialise in those things and I do not know those tricks. However, I

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do not think there was anything suspicious about that, if something of a confidential nature has not been read out on the roadsides. Nothing happened which was injurious—and we cannot expect that—to our economic interest. Nothing happened in the World Bank meeting that can be called as not even helping under-developed countries like India. The attitude of the members of the World Bank was to see that the needs of the under-developed countries may be fulfilled. That was the feeling of those countries who are in a position to lend and who are keen to help under-developed countries. More or less this was a unanimous decision of the Board of Governors of the World Bank, of which India is a member, to increase the funds of the Bank, as the under-developed countries will be most benefited by this.

Shri Nagi Reddy: On a point of information. Is it not a fact that so far as the World Bank's distribution of help is concerned, Europe and the western hemisphere get more than Asia, Africa and Australia?

Shrimati Tarkeshwari Sinha: There are so many countries in Europe and so we cannot judge it by geography. They might have got a bigger proportion of loans compared to India, but there are so many countries and the total loans add up to a bigger amount. So, we should not grudge that. But the fact remains that India has been the single highest beneficiary of the World Bank loans.

Shri Kalika Singh (Azamgarh): Why is it that the World Bank selects different projects in different countries and does not allow the countries to select the projects themselves? If we want loans for development of co-operatives and for tackling food and agricultural problems, the World Bank will not advance loans. They will advance loans only against railway projects.

Mr. Deputy-Speaker: The lender has also to see the security, adaptability, etc. According to the lender also, that must be a project to which it is prepared to advance loans.

Shri Kalika Singh: It is the Government of India which borrow and they can spend it on whatever project they want.

Mr. Deputy-Speaker: If the lender feels that the borrower is going to invest in some venture that would not be useful—he may be right or wrong—the lender has the option to advance the loan or not.

Shri Tyagi: Capacity to repay is also considered.

Shrimati Tarkeshwari Sinha: I have nothing to add to what Shri Tyagi has said. The capacity to repay is equally important.

Mr. Deputy-Speaker: Shri Kalika Singh meant that the capacity to repay has to be seen and not the capacity of the project. I was pointing out that the utility of the project, the prospects and the results being achieved from that may also be considered by the lender. What Shri Tyagi said, viz. capacity to pay, might mean the capacity of the borrower only.

Shri Tyagi: I suggested that it can give loans for projects which are paying. It is no use borrowing and sinking the money in projects which are not paying.

Shri Kalika Singh: My point is the World Bank has got no belief in the Government of India's paying capacity. It has got belief in the paying capacity of the railway projects only.

Mr. Deputy-Speaker: Whether it is the World Bank or somebody else, the lender has got full confidence in the Government of India when it invests its money in particular projects, where the lender also is agreed that they would give fruitful results.

Shri Tyagi: He wants it to be invested in dances, songs, music, etc.

Shri Kalika Singh: No; you have not understood me at all. Let me give an illustration. Suppose a landlord wants to borrow money and the lender says, I will give it to that tenant of yours who can repay me, I will not give it to you. In that case, the principle is wrong, because it is the Government of India which is borrowing and it can use it for any project it wants.

Shrimati Tarkeshwari Sinha: It is not only the Government of India, India is only one of the contributors to the World Bank funds. There are other countries who have contributed and their judgment has to be taken cognizance of. If the hon Member wants money for co-operatives, etc., I do not know where he stands.

I think I have covered all the points and I need not deal further with the argument Mr Nagi Reddy has advanced, viz, we are depending on them for everything, they are interfering and all that. I do not accept that charge at all. About the first Five Year Plan, the second Five Year Plan and the coming third Five Year Plan, if we think it fit that it is better to take their knowledge also into cognizance, we shall do that. In fact, we have been doing that. I do not want to go farther than that.

Shri Mahanty raised the point as to why this was kept as an ordinance. It was not necessary for that ordinance to be enacted, because our Constitution did not exist at that time. Our Constitution came into operation in 1950 and the ordinance was issued in 1945. So, it was not necessary; by the very nature of the ordinance, the Central Government was empowered to contribute that money to the World Bank fund.

Shri Mahanty (Dhenkanal): The hon. Deputy Minister stated that there was no need to validate that piece of ordinance as it was passed in 1945

under the Government of India Act and our Constitution was not in force then. If she kindly refers to section 72 and the Ninth Schedule of the Government of India Act, she will find that when an ordinance is promulgated by the Governor-General, it has to be ratified within six months. This was approved in an indirect way as late as 1946, I do not remember the exact date, but it was clearly after a lapse of more than a year. I would like to know from the hon Deputy Minister as to why there was such inordinate delay in validating that piece of ordinance. By the very fact that it was not ratified within a period of six weeks, that ordinance is a scrap of paper. Under article 123 of our Constitution, unless an ordinance is validated within

Mr. Deputy-Speaker: I hope the hon Deputy Minister follows what the hon Member means. He need not make a fresh speech now.

Shri Mahanty: Sir, if you do not permit me, I will raise it as a point of order, because I consider it is *ultra vires* of the Constitution and of our procedure and we are not within our legislative competence in doing this.

Shrimati Tarkeshwari Sinha: A point of order on what happened in 1945?

Shri Mahanty: No, I am raising a point of order on what is happening today.

Mr. Deputy-Speaker: Let us hear and we will see when we come to the Bill itself.

Shrimati Tarkeshwari Sinha: As I said, the enactment of that Ordinance was not necessary. If they want to challenge the validity of the Ordinance, I am no legal expert to reply to them. But we have assured ourselves, after taking cognizance of the opinion of the Law Ministry—we have accepted their advice—that there was really no need to get the Ordinance enacted. However, we have now come

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with this Bill because of the fact that the Central Government was not empowered, under the original Ordinance, to increase the original contribution which was made by our country as a contributor. Therefore, this Bill has come before this House. The purpose of this amending Bill is to ratify the additional contribution that we shall be required to pay to the World Bank.

Shri Mahanty raised the point about private agencies getting loans. As I said before, I repeat again that we have not debarred the private agencies from getting loans from the World Bank in case they deserve it, because the Government of India acts as a guarantor. It is clear that if the World Bank as well as the Government of India think that there are proper agencies to which loans can be advanced, they will advance loans. Even though the loan is going to the private agency, the Government is also there in the sense that the Government of India is the guarantor. So we have just to see the capacity of the person and the importance of the purpose for which the loan has been granted. If the steel plants in the private sector need loans for their expansion programmes and we need steel, I do not see any harm in advancing loans or the Government of India standing as a guarantor for those loans being given to those parties.

Then another hon. friend raised certain points of principles. He said that there are so many agencies channelising these loans. Now the different agencies which have come into the picture—we have two or three such agencies—their sphere of activity is quite earmarked and they do not contradict each other. They may be complementing each other, they may be helping each other in the sense the total effect of all these agencies is that the world economy is strengthened and the power of giving loan to the needy countries is also strengthened. So, they may be complementing each

other, but they never contradict each other. Now the object of these organisations in advancing loans and giving help is to see that the underdeveloped countries are helped in various manners. I do not think the hon. Member can give even one specific instance where he can show that these agencies have contradicted each other and their utilities would have been more if they had been unified under one authority.

Shri Shankaraiya: I think the hon. Minister has not correctly understood my point. My fear was that if several institutions of this kind are started, because members of one institution may be members of other institutions also, if a loan is refused by one institution say, International Bank, they may try to bring political influence and try to get loans by putting strings in the other institutions. They will make use of the other institutions according to their convenience to put in political strings.

Shrimati Tarkeshwari Sinha: It is no use indulging in presumptions. We do not consider and we do not think there is any need for having that apprehension when the thing does not exist. And I do not think I should analyse the presumptive arguments which have been advanced by the hon. Member. The different agencies which have been created have different ways of advancing loans to different institutions. The procedure is also different from one agency to another.

Dr. Krishnaswami (Chingleput): May I point out to the hon. Deputy Minister that while there may be many agencies, in all cases the Government of India has to guarantee the repayment? Therefore, if it has been rejected in the case of one particular institution by the World Bank, and if another institution wants to give it on political grounds, it is open to the Government of India to withdraw. In that case, the lender will have to lend at his own risk. Therefore, I do not

see any point in the argument that some sort of political strings would be attached.

Shri Harish Chandra Mathur (Pali): Is the hon. Member replying on behalf of the hon. Minister?

Dr Krishnaswami: No.

Mr. Deputy-Speaker: Let the Minister continue.

Shrimati Tarkeshwari Sinha: The hon. Member has explained that point. When I was asked about this thing, I was also obviously thinking on those lines. The hon. Member who has raised this point is quite well aware that the Government of India is the guarantor in the case of all these loans and advances by all these different agencies. I took cognizance of that argument and I was proceeding on the basis of that argument. Perhaps, the hon. Member was a little bit confused about the argument and the thinking in his own mind. Dr Krishnaswami has now made the point very clear. Because, it depends on the Government of India to accept a loan which they want to accept and to reject a loan which they want to reject, as it is not anybody's bounty which we are going to get. With these words I want to express my gratitude to the House for welcoming this measure.

Shri Nagi Reddy: I was to point out...

Mr. Deputy-Speaker: Does he mean to say that we cannot take it into consideration?

Shri Mahanty: I want a clear ruling from the Chair whether we are going to have a precedent in this House of an Ordinance, a scrap of paper which has been promulgated as an Ordinance, being enacted as a piece of law. If you will kindly permit me, I will elaborate my point.

Mr. Deputy-Speaker: If he feels it necessary, I will allow him as much

time as he wants. But there are two things. One thing is that the point of order that he has taken up cannot stand in the way of our passing this motion on the Bill that is before us. He can raise that point. Even if he raised it, I am sure he is well aware that the Chair has never interfered, so far as this question is concerned. It has obviously been left to the court to decide whether there is any law beyond the legislative competence of this House or not. The Chair has never decided, never taken any decision, on that. It has been left to the courts. This House has the right and sovereignty to pass any law which is *intra vires* or *ultra vires*. It is for the courts to decide whether they are *ultra vires*, or whether we are competent to pass them. But I will not take upon myself that responsibility, because there are so many precedents and rulings by my predecessors, Speakers and others, who have consistently held that the Chair does not take that responsibility. If the hon. Member wants to press it in spite of it, I will give him an opportunity when this motion has been adopted. It is for him to choose, as he likes.

The question is:

"That the Bill further to amend the International Monetary Fund and Bank Ordinance, 1945, be taken into consideration."

The motion was adopted.

Mr. Deputy-Speaker: Now, does the hon. Member want to raise the point?

Shri Mahanty: Let me make myself absolutely clear. I do not want to embarrass the Chair or the hon. Minister.

Mr. Deputy-Speaker: No question of embarrassment for me.

Shri Mahanty: A line of demarcation has to be drawn between the legislative competence of the House to consider a measure which may be declared *ultra vires* of the Constitution and a procedural matter which *prima facie* appears to be a violation.

[Shri Mahanty]

a contradiction, of our Constitutional provision. My point of order comes under article 123 of our Constitution. It will be seen from article 123 of our Constitution that an Ordinance can be passed by the President only during the period when the Parliament is in recess and that it has to be ratified subsequently from the time Parliament re-assembles. Under section 72 of the Ninth Schedule of the Government of India Act, 1935, to which a reference has been made in the Statement of Objects and Reasons, it will be seen that if an Ordinance is promulgated by the Governor General, it has to be ratified within a similar period, namely, six weeks.

Now, my first point is that since this was not done that Ordinance ceased to exist. Where is the Ordinance? Where is the Ordinance which is being sought to be amended by this piece of legislation? Because the Ordinance did not exist, by the very fact that it was never ratified, the Ordinance is a scrap of paper. Secondly, it baffles my imagination as a layman, not as a Member of Parliament, as to how an Act, how a piece of legislation can amend an ordinance. If an ordinance has to be amended it has to be amended by another ordinance.

Of course, this is a very minor matter, but I am bringing it to your notice because a clear line of demarcation has to be drawn by you, as the Speaker of this House, about a matter which is beyond the legislative competence of this House, maybe on account of this *ultra vires* nature of it fundamentally. I am not going into the fundamental part of it. That is for the law courts to decide. But it is a question of procedure and I find that under article 123 of the Constitution it is clearly untenable, as it was clearly untenable under section 72 of the Ninth Schedule of the Government of India Act, 1935. This is my point of order. I am in your hands for whatever you are pleased to rule

The Minister of Food and Agriculture (Shri A. P. Jain): May I say a word? This Ordinance was passed in the year 1945 when the Government of India Act, 1935 was in operation. Now, this Ordinance was passed in pursuance of the provisions of section 359.

Shri Mahanty: Section 72.

Shri A. P. Jain: No, section 359 of the Government of India Act, which runs as follows:

"If at any time when the Legislature is not in session "

No, that is for the States.

Shri Khushwaqt Rai (Kheri): May I, with your permission.

Shri Mahanty: The hon. Minister says that it is section 359. You may kindly see the annexure which has been appended to this. Here, it is mentioned.

'Now, therefore, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the

Mr. Deputy-Speaker: He is coming to that section. He has realised that the section which he was referring to concerns only the States.

Shri Amjad Ali (Dhubri): He has realised his mistake.

Shri Mahanty: He has corrected himself.

Shrimati Tarkeshwari Sinha: This Ordinance was passed in 1945. At that time the India and Burma (Emergency Provisions) Act, 1946, was in force and under that Act Ordinances passed during the period of emergency had effect as permanent laws. Also, the ordinary limitation placed on the life of ordinances of six months from the date of promulgation was removed in the case of ordinances passed during the period of the emergency by the Act of 1946 that I have referred to just now.

I would also like to clarify that even under our own Constitution laws which were in force before the 26th January, 1950, enforced either by way of an Act of Parliament or promulgated as an Ordinance, may continue as the existing law at that time

Shri Khushwaqt Rai: May I add a word to what the hon Minister has said?

Shri A. P. Jain: May I finish what I was saying?

Now, I will refer to section 42

Shri Braj Raj Singh (Ferozabad): Of the 1935 Act or of this Act?

Shri A. P. Jain: Of the Government of India Act, 1935. It says—

"If at any time when the Federal Legislature is not in session the Governor General is satisfied that circumstances exist which render it necessary for him to take immediate action, he may promulgate such ordinances as the circumstances appear to him to require:

Provided that the Governor-General—

shall exercise his individual judgment as respects the promulgation of any ordinance under this section if a Bill containing the same provisions would under this Act have required his previous sanction to the introduction thereof into the Legislature."

Clause (2) says:

"An ordinance promulgated under this section shall have the same force and effect as an Act of the Federal Legislature assented to by the Governor-General, but every such ordinance "

Then this is important

"shall be laid before the Federal Legislature and shall cease to operate at the expiration of six weeks from the re-assembly of the Legislature, or, if before

the expiration of that period resolutions disapproving it are passed by both Chambers, upon the passing of the second of those resolutions "

It is presumed that when a law has been passed—it has gone through the regular procedure and moreover in further support of the validity of the Bill the hon Lady Minister has pointed out that at that time this provision of six months was deleted—from whatever point of view we look at it, either from the point of view of legislation or from the point of view of special enactment which removed this condition of six months, the Ordinance should be presumed to be a valid Ordinance

Pandit Thakur Das Bhargava (Hissar): May I respectfully submit..

Mr. Deputy-Speaker: I do not think there is any necessity of discussing it further.

Pandit Thakur Das Bhargava: It is not a question of discussion. I will call your attention to article 372 of our own Constitution according to which an ordinance made by a Governor of a State is quite different from an ordinance made by the Governor-General. My humble submission is that it will be taken to fall under the provisions of article 372. This is not a kind of ordinance which is contemplated under article 123. Therefore it does not cease to operate after six months. It is an ordinance which will be taken to fall under article 372 of the Constitution.

श्री सुशबल राव : मुझे तो सिर्फ इतना ही कहना है कि मिनिस्टर साहब ने जो बात कही है वह ठीक है कि सन् १९४० का जो ऐक्ट है उसके मुताबिक यह अप्रत्याशित जारी किया गया। लेकिन साथ ही साथ उन्हें यह बात भी कहनी चाहिये थी कि सन् १९४६ में जो इन्डिपेंडेंट ऐक्ट बना उसकी जो धारा १८ (३) है उसके मातहत इसे कान्टिन्यू किया गया और उसके बाद से अब तक यह कान्टिन्यू किया जा रहा है।

बीजती तारकेश्वरी सिन्हा : क्या को
को नाम ही है।

Mr. Deputy-Speaker: What the hon. Member, Shri Mahanty, wanted to say was that now that we are amending an ordinance even under the Act of 1935 there was a provision under section 72 of that Act that ordinances would remain in force for six months only, unless approved by the Central Legislature. He asserts that if it had been ratified and approved by the Legislature then it must have become an Act. But because the Government says that it wants to amend that Ordinance, he maintains that if it has not been approved—according to him no further proof is required because still we are amending the Ordinance and not the Act—and if it has remained an ordinance, it is a scrap of paper and what are we going to do here by this Act. Normally, he says, the Chair does not interfere and does not take upon itself the responsibility of deciding whether an Act that is being enacted here is really *ultra vires* or not. He says that a distinction should be drawn between the two, when there is clear proof—the Bill that is before us may or may not be *ultra vires*—but on the face of it it looks that no legislation can be enacted on it. First Shri Mahanty said that he takes objection under article 123 of our Constitution. But that would not be applicable here because no ordinance was passed under article 123. Therefore, there was no question of any approval by this Parliament. That is disposed of so far as this Constitution is concerned.

Now, we come to the provisions of section 72 of the Government of India Act, 1935. But Shri Mahanty has overlooked the provisions of the Act to which our attention has been drawn by the hon. Minister in charge of the Bill, that is, an Act to make emergency provision with respect to the Government of India and Burma

dated the 27th June 1940. It lays down that—

“Section seventy-two of the Government of India Act (which, as set out in the Ninth Schedule to the Government of India Act, 1935, confers on the Governor-General power to make ordinances in cases of emergency) shall, as respects ordinances made during the period specified in section three of this Act, have effect as if the words “for the space of not more than six months from its promulgation” were omitted;”

This was an Act passed so far as those Ordinances that were passed during that period were concerned. So, we have to read that subject to this, as if these words were omitted. Therefore, these Ordinances, even though they were not approved, remain in force and still are valid laws. Therefore, I think there is no force in so far as this point of order is concerned

We may now take up the clause by clause discussion. I think there are no amendments to this Bill. I shall put all the clauses.

The question is—

“That clauses 2 to 5, clause 1, the Enacting Formula and the Title stand part of the Bill”

The motion was adopted.

Clauses 2 to 5, clause 1, the Enacting Formula and the Title were added to the Bill.

Shrimati Tarkeshwari Sinha: I move—

“That the Bill be passed.”

Mr Deputy-Speaker: The question is—

“That the Bill be passed.”

The motion was adopted.