

[Shri V. P. Nayar]

When you have this particular Bill it is necessary for us to consider how it will affect the existing legislation in the matter of import, forfeiture, bond, punishment and everything. If you take away all laws, regulations and rules in force and say "notwithstanding anything contained therein", the Customs Collector has the discretion. And how is the discretion exercised? By circumstances which, according to his discretion, should be such as to enable him to pass an order on the bond. I submit that in such cases clear and specific provisions ought to be made before a discretion is vested. Otherwise, in the absence of clear and specific provisions limiting the exercise of discretion by an executive officer, no courts are going to justify the exercise of a discretion. Because, the courts have always held that the exercise of discretion by an executive officer must be on the same basis as the courts exercising discretion. Do we have anything in this? I regret that despite all our efforts, the hon. Minister does not seem to understand the distinction between this particular Bill and the other laws.

I would once again urge upon him that in his wisdom he may reconsider this. There is nothing lost; because, he himself says that we are having it for a period of time. If by five o'clock it is not passed, the Heavens are not going to fall, as he himself agrees, and the import policy is not going to be changed. Nor are we having any crisis here? But with the possibility of mischief, with its great potential for mischief, I submit that such a blanket power cannot be given, and it will be very dangerous to set up a precedent investing the Customs official or, for that matter, any other officer with power to give the go-by to all enactments and statutes and asking him to exercise his discretion merely based on certain circumstances and facts as he understands them.

I would once again appeal to the hon. Minister that in the interests of our country's economy, in the interests of our country's trade he should reconsider the provisions of this Bill and bring forward another amendment, as otherwise it will be said later on about him that he was responsible for this legislation.

Dr. B. Gopala Reddi: The Sea Customs Act, as it stands at present, does not have a provision about taking bonds and clearing the goods. But the Collectors, in their discretionary powers, are following that practice. Otherwise, as I said, difficulties would arise and there will be a standstill in business. And the Attorney-General seems to have expressed a doubt whether they had the power. The Collectors thought they had the power, because it is a matter of procedure how the goods have to be cleared and things like that. But the Attorney-General seems to have expressed a doubt whether the Collectors had those powers of taking a bond. Now, in order to strengthen their action by legal enactment we have come forward with this amending legislation which only is a procedural matter.

Whatever Mr Nayar has said about other things, I did not quite understand. It does not matter. Anyhow, as I said, the Attorney-General expressed a doubt, and we are trying to remove that doubt.

Mr. Deputy-Speaker: The question is:

"That the Bill be passed".

The motion was adopted

16.55 hrs.

MANIPUR AND TRIPURA (REPEAL OF LAWS) BILL

The Minister of Cooperation (Dr. P. S. Deshmukh): Sir, I beg to move:

"That the Manipur and Tripura (Repeal of Laws) Bill, 1958, be taken into consideration."

By this Bill, as the title itself indicates, we propose to repeal three of the enactments which are in force today and to replace them by three other enactments. These are (1) The Manipur Co-operative Societies Act, 1947, (2) The Tripura Co-operative Societies Act, 1358 T E (that is the Hindu Calendar Year), and (3) The Tripura Kushiid Niyamak Bidhi, 1303 T E (which is also of the Tripura Calendar). And these three enactments are to be replaced by (1) The Assam Co-operative Societies Act, 1949 (2) The Bombay Co-operative Societies Act, 1925, and (3) The Bombay Money-lenders Act, 1946

Both these Governments have been pressing us that these enactments which are inadequate and defective and not conforming to the principles of co-operation, etc., should be repealed and replaced by the enactments which I have mentioned. I do not think I need give the details of defects, but some I might put before the House by way of illustration. For instance, in the Manipur Co-operative Societies Act, 1947 there is no provision for division and amalgamation of societies. We are trying to reorganise many of these societies. Some may be divided and some amalgamated, but this process would be impossible under the existing provisions of this Act.

Secondly, it is also possible under section 13(2) of the Manipur Co-operative Societies Act, 1947 that one man might have more votes than one according to the number of shares he owns. This is against the co-operative principle. Irrespective of the number of shares, the votes cannot be more than one. So, this also we seek to remove.

Then, under section 19 of the Act, which defines the rights of a society in respect of the recovery of debts, there is not proper priority for the debts owed to a co-operative society. Now, we are trying to create a first charge which is necessary to be created in favour of a co-operative society if we want to assist them in their recovery.

Then, the Manipur Act does not also exclude the jurisdiction of civil courts. Now, so far as recoveries of co-operative societies' loans are concerned, the matter is generally referred to arbitration, and that is the final thing. Recourse to civil courts would be a lengthy procedure, and therefore it is not a position which is helpful for the operation of co-operative societies.

There is also no provision in the Act for extension of financial assistance by State Governments to societies, as is envisaged in the Second Five Year Plan, by which the Governments contribute share capital to the co-operative societies.

Then, about the Tripura Co-operative Societies Act, that is also considered out-moded, defective and inadequate. For instance, it is not properly drafted and there is no provision for settlement of disputes by arbitration. There is no provision also for the appointment of liquidators and for statutory audit. The Act requires the payment of a fee of ten rupees for registration of the society which, we consider, is not desirable. That does not obtain so far as other Acts are concerned. Then, the Act does not also recognise the principle that a member is entitled to only one vote which I have already referred to so far as the Manipur Act was concerned.

With respect to the Tripura Kushiid Niyamak Bidhi this Act is also very old. This is about money-lending. There is provision for licensing, but the regulation of money-lending business is not adequate.

17 hrs

These are the various reasons. I do not think I need go and deal with the matter more exhaustively. It is only due to the request of the Governments of Manipur and Tripura, which was made in 1955 that we have taken up the matter. They thought that merely a notification would be enough, but we examined the legal provisions and found that a repealing

[Dr. P. S. Deshmukh]

Act is necessary. That is why, Sir, I have come before this House with this Bill.

Mr. Deputy-Speaker: Motion moved:

"That the Bill to provide for the repeal of certain laws in force in the Union territories of Manipur and Tripura be taken into consideration "

Shri L. Achaw Singh (Inner Manipur): Mr Deputy-Speaker, Sir, the

Manipur and Tripura (Repeal of Laws) Bill, 1958, is a small piece of legislation conferring delegated power on the Central Government with respect to the working of co-operative societies in Manipur and Tripura.

Mr. Deputy-Speaker: The hon. Member may continue next day.

17.02 hrs.

The Lok Sabha then adjourned till Eleven of the Clock on Wednesday, the 3rd September, 1958.
