

that it is acceptable to the Government. The hon. Minister has also said that there was a long discussion the other day and the Members were divided. Ultimately we adopted it by a majority. I think the hon. Members were entitled to have proper notice. I therefore hold it over till tomorrow. I think I can take up the next business. I hope the hon. Minister concerned is ready for that. We will continue with the present Bill tomorrow.

Shri Supakar: There are other clauses.

Mr. Deputy-Speaker: Are the hon. Members of the view that we can proceed with the other clauses of the Bill.

Shri Supakar: Do you propose that clause be deferred?

Mr. Deputy-Speaker: That was my view, namely, that it may be held over. There are some more clauses which we might complete.

Shri Naushir Bharucha: I have got amendment No. 16.

Mr. Deputy-Speaker: Yes, So, clause 18 may be held over. So far as clause 19 is concerned, we shall take it up now. I see no amendment is being moved to clause 19.

The question is:

"That clause 19 stand part of the Bill".

The motion was adopted.

Clause 19 was added to the Bill.

Mr. Deputy-Speaker: I think clause 1 and the rest may be held over till tomorrow. We now proceed to the next Bill.

BOMBAY, CALCUTTA AND MADRAS PORT TRUSTS (AMENDMENT) BILL*

The Minister of Transport and Communications (Shri S. K. Patil): I beg to move:

"That the Bill further to amend the Bombay Port Trust Act, 1879, the Calcutta Port Act, 1890, and the Madras Port Trust Act, 1905, be taken into consideration".

This is a non-controversial measure. It is merely an enabling Bill that puts the competence of the Port Trusts beyond doubt as to their authority for borrowings from institutions and sources outside this country. As has been explained in the note, a doubt arose when we were considering this subject matter in relation to the loan to be got from the World Bank—the International Bank for Reconstruction and Development—whether it was competent for the Port Trusts of Calcutta and Madras to get any borrowings from outside this country. Even if it was presumed by any stretch of imagination that such a competence did exist, doubts arose whether certain conditions that were attached to these loans could be covered by that competence. Therefore, to put this question beyond the possibility of doubt, we are coming forward with an amendment to this Act.

Incidentally, we are having also the Bombay Port Trust Act amended, because when we come to the Bombay Port Trust with regard to the loan, the same difficulty may not arise.

I do not want to make a long speech. As I said, this is merely an enabling Bill that authorises the Port Trusts to go in for the borrowings from outside. When doubts are to be removed, it is better that they are removed once and for ever.

Shri Naushir Bharucha: May I have a clarification from the hon. Minister? Is it the intention of the Government

[Shri Naushir Bharucha]

to guarantee the loans which will be contracted from the World Bank.

Shri S. K. Patil: Yes. Those conditions do remain. Although these Port Trusts are autonomous bodies, they function under the general supervision and authority of the Government of India. For these borrowings, permission has got to be sought and the loans have got to be guaranteed by us. When a doubt lurks, and even if there be no doubts, when a doubt lurks, why keep that lurking doubt? Therefore we are taking this measure to clarify the competence of these authorities to go in for those borrowings.

Mr. Deputy-Speaker: Motion moved:

"That the Bill further to amend the Bombay Port Trust Act, 1879, the Calcutta Port Trust Act, 1890, and the Madras Port Trust Act, 1905, be taken into consideration".

Shri Naushir Bharucha: I rise to a point of order.

Mr. Deputy-Speaker: I am going to raise it for himself. Really, if it is going to be guaranteed by the Government, the question whether President's sanction is necessary or not would arise.

Shri Naushir Bharucha: Article 110 of the Constitution is attracted. Therefore, President's recommendation is necessary.

Mr. Deputy-Speaker: There is no mention of it either in the body of the Bill or in the Statement of Objects and Reasons.

Shri Naushir Bharucha: Therefore, the hon. Minister—

Mr. Deputy-Speaker: He has succeeded in getting that point made here. So far as the Bill is concerned, there is no mention of it in the whole Bill.

Shri V. P. Nayar: It would not have normally arisen but for the hon. Minister's statement. It is definite now.

Mr. Deputy-Speaker: He might say whether he accepts it, or, it might be some misapprehension. In the body of the Bill there is no mention nor is there any mention of it in the Statement of Objects and Reasons. There is nothing to show whether really a guarantee has to be given by the President. That might be considered.

Shri C. R. Pattabhi Raman (Kumbakonam): Really, the ports come under the Union List, against entry No. 27—in the Seventh Schedule to the Constitution.

Mr. Deputy-Speaker: If the hon. Minister is sure that a guarantee has to be given, then I could allow the point of order to be raised first. I thought there was no mention of it and therefore the question does not arise. Now, let that point be made clear first. I will allow Shri Naushir Bharucha to raise the point of order. Then we can discuss it.

Shri S. K. Patil: The terms of the loans were under negotiation. It is very recent history. So far as this particular point is concerned, the points whether the Government of India guarantees it or not, what type of guarantee it is, whether there is any infringement of any particular provision of the Constitution, etc., are matters for consideration. I would, therefore, request you to hold it over until we get that point cleared.

Shri Naushir Bharucha: Since the hon. Minister wants to get the point clarified, he may as well get this point further clarified.

Mr. Deputy-Speaker: He may move his point. We have only ten minutes now.

Shri Naushir Bharucha: Yes. I raise the point of order so that the hon. Minister might consider it fully. The first point of order is that under article 110 President's sanction is necessary. Money Bills are defined in

article 110. Sub-clause (b) of that article says:

"the regulation of the borrowing of money or the giving of any guarantee by the Government of India, or the amendment of the law with respect to any financial obligations undertaken or to be undertaken by the Government of India".

If the Bill contains any of the things mentioned in that sub-clause, then the recommendation of the President is necessary.

"Or the amendment of the law with respect to any financial obligations undertaken or to be undertaken by the Government of India".

Even if the guarantee were not there, still, if the Government of India undertakes the financial obligation, namely, in regard to finding foreign exchange, assets for the repayment of the loans, etc., in either case, the recommendation of the President would become necessary.

Mr. Deputy-Speaker: He may say whatever he likes in support of this.

Shri Naushir Bharucha: What I submit is this. Probably what is desired is this. The hon. Minister is under the impression that by arranging the terms and conditions and giving the Government of India the sanction, it may be possible to incorporate in these terms and conditions, which the President may sanction, certain clauses saying that the Government of India guarantees them, may be included. My submission is that it cannot be done either by laying down the rules or by incorporating them in the terms and conditions on which the sanction of the Government of India would remain. I am not speaking on the point whether this Bill should be put through or not; I am opposing it on different grounds on its merits. But that is a different point. If it is the desire of the Government of India that

the various port trusts should resort to the World Bank, then I do not see how they will at all escape from the financial obligations of the type which I am arguing, because it is obvious that the loans will be contributed in foreign currency and the payment will be in foreign currency.

Mr. Deputy-Speaker: He must have seen the Statement of Objects and Reasons. There it is said:

"Before the loan agreements can be entered into, it is necessary to place beyond doubt the legal competence of the port authorities to obtain loans from the Bank on such terms and conditions as may be approved by the Central Government."

So, the Central Government has to approve the terms and conditions with which the loans are to be taken. Otherwise, the objective of the Bill is to give legal competence to those port trusts to borrow money.

Shri Naushir Bharucha: I can see the point of distinction which you are raising. But my point is, even if you are having this Bill with the object of putting in an enabling or empowering clause so that the doubt is removed, still that will not be sufficient for this reason, because your borrowing powers are not complete until either the Government guarantee it or in respect of the repayment, the Government say that they incur the financial obligation of finding the necessary foreign exchange assets for the purpose of repayment. What type of power to borrow would it be, unless the powers of repayment are also there? Borrowing is only completed when we also complete the provisions with regard to repayment. Therefore, since borrowing presumes repayment, the repayment involves expenditure of foreign exchange assets. So, it is inevitable that the Government of India must incur the obligation of finding the necessary foreign exchange resources. That in itself is a financial obligation. It may be urged perhaps

(Amendment) Bill

[Shri Naushir Bharucha]

that the port trusts will provide sufficient rupees to the Government, but the financial obligation to find foreign exchange is there.

Mr. Deputy-Speaker: The hon. Member is referring to article 110 (b):

"(b) the regulation of the borrowing of money or the giving of any guarantee by the Government of India..."

Does the Bill contain anything to the effect that the Government of India is giving any guarantee? Should we proceed with the Bill or upon what the hon. Minister says?

Shri Naushir Bharucha: Assuming for the moment that guarantee is not necessary...

Mr. Deputy-Speaker: We shall have to confine ourselves to the wording of the Bill.

Shri C. E. Pattabhi Raman: If I may interrupt for a moment, according to article 117, the objection must have been taken at the time of introducing or moving the Bill.

An Hon. Member: He has just moved it.

Shri C. E. Pattabhi Raman: Having allowed it to be introduced, can this objection be taken now?

Mr. Deputy-Speaker: This objection can be taken at any stage.

Shri C. E. Pattabhi Raman: According to article 117, the matters which come within the four corners of a Money Bill are these. The heading is "Special provisions as to financial Bills".

"A Bill or amendment making provision for any of the matters specified in sub-clauses (a) to (f) of clause (1) of article 110 shall not be introduced or moved except on the recommendation of the President."

It "shall not be introduced or moved"; I pause there. Having allowed it to come through, can objection be taken now? First of all, there is no guarantee. My argument is two-fold. I just want to say that we are now long past the stage of moving.

Mr. Deputy-Speaker: Even the introduction of such Bills as are contained in article 110(1) is barred...

Shri C. E. Pattabhi Raman: Can it be related back?

Mr. Deputy-Speaker: Even introduction is barred. But if it is allowed and no objection is taken, I cannot agree that this objection cannot be taken subsequently.

Shri C. E. Pattabhi Raman: The question is, is the Bill properly before the House or not? A Bill cannot be properly before the House, if it is a financial Bill, unless all the requirements of article 117 are fulfilled.

Mr. Deputy-Speaker: By the mere introduction, that defect has not been cured, if the defect is there. I do not say that the defect is there.

Shri C. E. Pattabhi Raman: I submit, in any event, there is no defect at all. It is not a question of borrowing or giving guarantee. With all respect, I ask, having allowed it to come properly *a fortiori* before the House, is it open to anybody to say that it is bad *ab initio*. The wording of article 117(1) is:

"A Bill or amendment making provision for any of the matters specified in sub-clauses (a) to (f) of clause (1) of article 110..."

Mr. Deputy-Speaker: If he reads clauses (1) and (3) of article 117, he will find the distinction that some are Money Bills and others are financial Bills. So far as Money Bills are concerned, they cannot even be introduced unless that permission is there. So far as financial Bills referred to in clause (3) are concerned, they cannot be passed, unless such permission is

obtained. We have to see if this is a Money Bill or not. If it is a Money Bill, it is covered by clause (1).

Shri C. E. Pattabhi Raman: First we have to examine whether it is a Money Bill or not.

Mr. Deputy-Speaker: We will have to examine first whether it is a money Bill or not and secondly, if it is a Money Bill, since no objection has been taken at the stage of introduction whether that defect has been cured or whether that objection can be taken even now.

Shri C. E. Pattabhi Raman: I cannot put it better; that is precisely what I mean.

Shri V. P. Nayar: Mr. Pattabhi Raman seems to be under the impression that because we did not raise the objection at the time when the Bill was introduced or moved, we are barred from raising a point of order at this stage.

Shri C. E. Pattabhi Raman: I do not know; the Chair has explained it.

Shri V. P. Nayar: That is what we thought your view was. In this connection, I would only refer to the particular rule which regulates the point of order. Rule 376 says:

"A point of order shall relate to the interpretation or enforcement of these rules or such Articles of the Constitution"—

I would like to underline the words "such Articles of the Constitution"—

"as regulate the business of the House and shall raise a question which is within the cognizance of the Speaker.

(2) A point of order may be raised in relation to the business before the House at the moment".

My only point is that the point of order is quite valid in so far as it

raises a question relating to the procedure in the House and there is no bar in any of these rules to raising the point of order at this time. Regarding the argument which is advanced by my learned friend, Shri C. E. Pattabhi Raman, we are entitled to raise it any time. Even if we had not raised it at the proper time as he says, we are not barred from raising it now.

Shri C. E. Pattabhi Raman: I am only saying that the cart must not be put before the horse.

Shri V. P. Nayar: The cart is very much behind the horse.

Mr. Deputy-Speaker: This is what Mr. Bharucha is arguing that this is a Money Bill and for that he relies upon the answer given to his question just now by the hon. Minister.

Shri S. K. Patil: I asked for time for the simple reason that when I am asked whether there is a guarantee of the Government of India, I cannot withhold from this House the information if there was anything in substance of that kind. I was not sure in my own mind what type of guarantee it is. So far as the Bill as it is, is concerned, no guarantee exists. The House goes by the Bill; there is no doubt about it. But when a question is asked and if I am in possession of some knowledge about it, I cannot withhold it. Therefore, I want time to examine what type of guarantee it is, whether it has infringed ultimately any article of the Constitution. That is why I say that we need not go into these matters just now until I verify what type of guarantee it is and whether it does really come in the way.

Shri V. P. Nayar: We agree there is a guarantee; would the hon. Minister take us into confidence and give us an idea of the guarantee? Otherwise, the discussion will not be useful.

Mr. Deputy-Speaker: I cannot bind him just now to it. That will be decided when he comes up with his statement.

ANNUAL REPORT OF HINDUSTAN SHIPYARD PRIVATE LTD.

Mr. Deputy-Speaker: We will now take up the discussion on the Annual Report of Hindustan Shipyard Private Ltd.

Shri D. C. Sharma: Sir, I beg to move:

"That the Annual Report of the Hindustan Shipyard Private Ltd., for the year 1956-57, laid on the Table of the House on the 27th March, 1958, be taken into consideration."

15 hrs.

Mr. Deputy-Speaker, the Hindustan Shipyard Private Ltd. fill my imagination as a citizen of India because when we are having so many nationalised undertakings in this country, I cannot help feeling that this is one of those which fulfils a long-felt national need, more than any other national undertaking. I believe that it is something which links up the hoary past of India with its present possibilities. It is something which makes us think of what we can do with our big and long coastline. As a friend the other day said, Arabian Sea....

Shri Naushir Bharucha: Should there not be a quorum when a new item is taken up?

Shri V. P. Nayar: First quorum and then speech.

Shri D. C. Sharma: The Arabian Sea...

Mr. Deputy-Speaker: First we will have quorum and then Arabian sea. The bell is being rung.

Now there is quorum. The hon. Member may continue his speech.

Shri D. C. Sharma: As an hon. Member stated, the strategy of defence, so far as this country is concerned, has to do with the Indian ocean; when one thinks about the defence, when one thinks of our merchandise, when one thinks of giving a kind of emotional integration to our country, one thinks of the Hindustan Shipyard Private Limited. But, when I think of it, I am reminded of a book by a great English novelist, and the title of that book is "A Tale of Two Cities". The Hindustan Shipyard is a tale of two countries or a tale of two cities; it is a tale of France and India. It is a tale of Visakhapatnam and Paris. Like that tale which that great English novelist wrote, this is also a very tragic tale, a very unhappy tale...

Mr. Deputy-Speaker: It would be written again.

Shri D. C. Sharma: It is a very unhappy tale and this tale is the result of the Indian lack of experience and the French lack of competence; two things have combined to make this tale distressing.

Mr. Deputy-Speaker: The hon. Member may resume his seat for a second. The hon. Member is short-statured and just now two hon. Members have come and sat in their seats in front of him, which eclipses him altogether from my view. I have pointed out this so many times. There is a very salutary rule that a member should not pass between the member speaking and the Chair. Now, two very senior members have done it.

Shri Joachim Alva: I apologize for what I have done unwittingly.

Mr. Deputy-Speaker: This should always be kept in mind.

Shri Feroze Gandhi: I do not know what I did. But I also apologize.

Shrimati Renu Chakravarty: The hon. Speaker had promised him a seat further up in the row.