

- (4) Discussion on two motions given notice of by Shri Harish Chandra Mathur and others on Public Sector Undertakings on Tuesday, the 13th December, at 3 P.M.
- (5) Discussion on the Annual Report of Neyveli Lignite Corporation Limited for the year 1958-59, on a motion to be moved by Shri K. T. K. Tangamani on Thursday, the 15th December, at 3 P.M.

Shri Mahanty (Dhenkanal): If you will kindly remember, Sir, we had requested the Government to come forward with a Motion for discussion of the Second Report of the Linguistic Minorities Commission. We are very anxious to have a debate on that report. It is being held over since the last session. We do not know really when it is going to be brought before the House.

Shri Satya Narayan Sinha: We have committed that we will have it in this session. I think the hon. Member must be a little patient. The session is not going to be over by this week.

12.20 hrs.

APPROPRIATION (NO. 5) BILL,
1960

The Minister of Revenue and Civil Expenditure (Dr. B. Gopala Reddi): On behalf of Shri Morarji Desai, I beg to move*:

"That the Bill to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of India for the services of the financial year 1960-61 be taken into consideration".

Mr. Speaker: The question is:

"That the Bill to authorise payment and appropriation of certain further sums from and out of the

Consolidated Fund of India for the services of the financial year 1960-61 be taken into consideration".

The motion was adopted.

Mr. Speaker: I shall now put the clauses etc., to vote.

The question is:

"That clauses 2 and 3, the Schedule, clause 1, the Enacting Formula and the Long Title stand part of the Bill".

The motion was adopted.

Clause 2 and 3, the Schedule, clause 1, the Enacting Formula and the Long Title were added to the Bill.

Dr. B. Gopala Reddi: I beg to move:

"That the Bill be passed".

Mr. Speaker: The question is:

"That the Bill be passed".

The motion was adopted.

12.21 hrs.

FORWARD CONTRACTS (REGULATION) AMENDMENT BILL—contd.

Mr. Speaker: The House will now resume further consideration of the following motion moved by Shri Kanungo on the 8th December, 1960, namely:—

"That the Bill further to amend the Forward Contracts (Regulation) Act, 1952, be taken into consideration".

Shri Heda who was in possession of the House may now continue his speech.

The total time allotted is 5 hours; the actual time taken is 2 hours 50 minutes, and, therefore, the balance available is 2 hours 10 minutes.

*Moved with recommendation of the President.

[Mr. Speaker]

How long does the hon. Minister propose to take for his reply?

The Minister of Commerce (Shri Kanungo): I shall take about 15 to 20 minutes.

Mr. Speaker: How long will the clauses take? We have to conclude this by 2.30 P.M.

Shri Warior (Trichur): The clauses may not take so much time. Some more time may be given for the general discussion.

Mr. Speaker: Shall we allot one more hour for the general discussion?

Shri Kanungo: For the discussion of the clauses, at least one hour is necessary.

Mr. Speaker: It is now about 12.24 P.M. This means that the general discussion will conclude by 1.30 P.M. I shall call the hon. Minister for reply at 1.10 P.M.

Shri Heda (Nizamabad): Yesterday, I was referring to clause 6, and I was saying that I did not grudge, rather I had welcomed the commission taking some more powers. The point is whether these powers are adequate to solve the difficulties that the commission is facing.

Let us see the difficulties which this Forward Markets Commission is facing. The commission has found that a certain class of traders carry on trading in contravention of the provisions of the Act. For example, trading in hedge contracts in commodities brought within the purview of the Act is carried on in unrecognised associations, or trading is carried on in prohibited commodities, Option trading is also carried on on the sly. Trading in commodities to which section 15 of the Act has been applied is carried on in the name of 'kerb' outside official hours. There is also misuse of non-transferable specific delivery contracts for speculative purposes. In the early stages, the commission drew the attention of recognised associations

and of the trade to the various aspects of illegal trading that was going on with a view to stopping such trading. When this did not have the desired result, the commission had to carry out raids on firms alleged to be carrying on illegal trading, through the agency of the State Governments, and the necessary prosecutions were launched, and many persons were prosecuted. So, these are the problems that the commission is facing.

The point is whether with the powers given under this clause and also the clauses that follow it, we shall be able to solve the problem. So far as 'kerb' trading, that is, trading outside official hours is concerned, I do not think this Bill will go far enough, because generally, such trading is unauthorised and it is carried on outside official hours. Therefore, it is very difficult to trace it. On the previous day, outside the official hours, they make some deals, and on the next day, they may regularise them as if they entered into these deals or these contracts during the official hours. Thus, they escape.

There is also another thing. Taking action against the persons concerned is not so easy. It is quite difficult. Therefore, whatever control or regulation of the forward market we can exercise will be through the good offices of these associations. That being the case, the other provisions of this Bill, namely the new chapter that is now being provided, and also the clauses making the penalties more severe will not go very far.

So far as penalties are concerned, three Members have spoken about it in detail, and one Member was rather very much obsessed by it, and he said that on mere technical grounds, we should not indulge in giving jail punishments. I do not agree with him, and I do feel that this type of punishment will have the desired effect to a certain extent. But the point is that it would not solve the entire problem, as has been the case in regard to many other things. It is

just possible that the people concerned may find a class of persons in whose name they trade and the persons in whose name they could trade may face imprisonment, and the real person behind him will go scot-free.

So, the only short point that I want to make is that the various powers that already the commission possesses, and the powers that are now sought to be given will not be enough to solve the problem. The problem will have to be solved outside the purview of this Act by various other activities and through the climate that we shall be creating through the recognised associations and so on.

I wish that the commission gets the spirit of confidence and the hesitancy that I had experienced in its working so far would not be there hereafter. The very fact that they would go into greater details and try to get evidence and so on will mean that there will be no difficulty in case of prosecution, and the prosecution would be successful. But I hope that this very provision may not make them hesitant or mean delay in taking action. That was my apprehension, and I hope that my apprehension will remain not well-founded.

With these remarks, I support the Bill.

Shri A. P. Jain (Saharanpur): Shri V. P. Nayar is reported to have said yesterday that in a planned economy, there is no place for forward markets, that is, for forward transactions. Shri V. P. Nayar appears to have forgotten that in our planned economy, the industrial activities are divided into various sectors. Firstly, there are public enterprises, which are owned and worked by the State. Secondly, there are enterprises which are primarily to be run by the State, but in which, in exceptional circumstances, private industrialists are also allowed to partake. Then, there is the third sector, of the organised industry which is controlled and left primarily to the private enterprise. Lastly, there is a
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private sector which is not much organised. Behind all this is the agricultural sector which produces raw materials, and which is more or less unorganised. Therefore, our economy is not a wholly socialised economy. In the system of planning, it appears to me, that there is not only scope but necessity for forward markets. Forward marketing, if indulged in excessively, leads to speculation. Within certain limits, it helps to hold the price line. I was, therefore, somewhat taken aback when Shri V. P. Nayar said that in a planned economy of the type we have adopted, there is no place for forward trading.

Coming to the merits of the Bill, there are certain provisions—positive provisions—which, I think, are good and should be welcomed. But there are omissions which, I feel, are regrettable and which will not be helpful, may I say which will be injurious to fuller control of the market. The hon. Minister, while moving for the consideration of the Bill, said that the Act has on the whole worked well and that its fundamental basis was not wrong. I am sorry I cannot share his opinion. The Forward Markets Commission, in my opinion, has, on the whole, failed to control speculative activities. It is the experience of every one of us today that speculation is rampant not only in stocks and shares, but in a large number of commodities including food articles and various types of raw materials—jute in particular. This by itself is a clear indication of the failure of the Commission to hold the price line. I do not say that the activities of the Forward Markets Commission can by themselves hold the price line, but I do say that the Commission is one of those agencies upon whom the responsibility for holding the price line falls to a large extent.

Among the provisions of the Bill which I welcome are the power to specify bye-laws, the contravention of which would make contracts illegal. I think this is a healthy and salutary

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provision. Again, the power of Government to suspend a member of a recognised association and/or to prohibit him from entering into forward contracts is another healthy provision. Experience in the past has shown that a few speculators spread over various parts of the country—some in Northern India, some in Western India and some in South India—have joined hands together in rigging the market to an extent which has created dangerous conditions. If this provision is effectively and properly enforced, I do hope that that kind of rigging will become impossible. Another provision which I welcome is the compulsory registration of associations engaged in forward trading and the limitation of forward contracts to specified hours, that is to say, any contract entered into outside those hours will not be considered a legal contract.

Among other important provisions, the enhancement of the punishment for contravention of laws and regulations is another welcome improvement. I particularly welcome the provision which says that in case of recurrent offence, that is when a person has contravened a provision of law a second time, he will have to compulsorily undergo imprisonment. Besides this, a few other provisions, as for instance, vesting of the power of a civil court in the Forward Markets Commission, will certainly make its working effective. It is a good provision. The power of Government to prescribe the maintenance of certain accounts and other documents and the submission of returns will, I think, regularise the working of the associations.

While all these are welcome provisions, I feel that they are very very incomplete. The main structure of the law has been maintained as it is, namely, that the Forward Markets Commission under the present Act has the power to notify certain commodities in respect of which forward transactions cannot be entered into. The

same structure has been maintained after the amendment of the law, namely, in future too the Commission shall have the power to specify certain commodities in respect of which forward contracts will be prohibited.

What is our past experience? The House will remember that at one time—I believe a couple of years or so ago—forward trading in gram was prohibited. What did the speculators do then? They began to speculate under the name of *archar* and those contracts, although they were in reality forward contracts in gram, were done under a fake name. So long as a wide area for forward marketing is left to the speculators, they will circumvent legal provisions and continue to speculate in prohibited articles under another fake or camouflaged name. Besides, speculation today has reached such vast dimensions that the vast scope now allowed to speculators will come in the way of the Forward Markets Commission in controlling market conditions. I wish to suggest in all humility to the hon. Minister that he should revise the scheme of the law radically, namely, that forward trading should be prohibited in all articles except those which are permitted by the Forward Markets Commission. Firstly, contracts for forward trading must be entered only through a recognised association. That provision is there. Secondly, they will be entered into only in respect of commodities in which the Commission allows forward marketing. In all other commodities, such transactions will be completely and totally prohibited. That alone can bring sanity to the markets.

What do we find, Take the Stock Exchange. In the case of a certain company, shares valued at Rs. 50 were sold in advance even before the share capital had been subscribed at about Rs. 350 per share, that is at a premium of 600 per cent.

Shri Naushir Bharucha (East Khadesh): What has it to do with forward trading?

Shri A. P. Jain: I am talking of speculation. That is the condition of speculation in the market today. Forward trading does add to speculation. It enables people to speculate.

The holding of the price line during the Third Five Year Plan period has been accepted as a very important aspect, towards which our efforts should be directed. The Planning Commission had laid down that in the Second Plan that speculative tendencies must be curbed. It has laid down certain fiscal and monetary measures, physical controls, e.c. The Reserve Bank has been trying to control the availability of credit by various mechanisms. The steps taken by the Reserve Bank have succeeded to a certain extent. Certain fiscal measures have also been taken and they have succeeded to a limited extent. In order to hold the price line, we know that Government have imposed price control, movement control and so on. All over the world, the experience has been that the fiscal and monetary controls and physical controls have succeeded only to a limited extent. Even in that monolithic State I refer to the USSR—physical controls were tried. Prices were laid down for a large number of commodities but they failed to enforce these prices. In Russia, even today, there are two flourishing markets—one controlled market which sells commodities at controlled prices and side by side of the controlled market, there is another market a sort of a free market where the same commodities are being sold at a much higher price. When the Russian Government, with all its power and might, failed to enforce the prices, it made the black market into a white market.

We have tried a number of measures of control in India, and the control over the forward marketing is very essential for maintaining the price line. I do not say that we are in the grip of an inflation now but there are certain inflationary trends in the country and the prices have been rising. Forward market flourishes when the prices have a tendency to go up.

So, curbing the forward markets becomes all the more necessary. We are going to have the Third Plan which will be of a vast magnitude. If the prices continue to have a tendency to go up, the forward markets will expand more and more. I do not say that it is not useful. So long as there is a private sector, the industries would like to assure themselves of supplies and raw materials. But forward markets can be utilised for this purpose, genuine marketing operations and also for speculation. We must not allow the speculative tendency to have free play. It is for that reason that I feel strongly that the scheme of the law must be changed and forward marketing allowed only under controlled conditions where it is needed for genuine trading purposes and not for the purpose of speculation. My apprehension is that if vast scope is left open to forward markets, speculation will continue. Therefore, I consider this law is a halting law. I know that the Forward Market Commission is afraid of radical changes, which my suggestion implies. I know that a big burden will fall upon the Commission but this House feel greatly concerned about certain important matters—holding of the price line is one of them—and necessary steps must be taken. Mere administrative difficulties or timidness of hearts should not be allowed to come in the way of healthy economic growth. Unless this law is made much more strict than it is today, it will fail in its object, as it has failed in the past. The hon. Minister should give a little more thought to what I have said. After all, the Forward Contracts Act has been there on the statute-book for many years. This amending Bill has also been under consideration for a long time; there is no great hurry that the Bill should be passed at once. It may be referred to a Select Committee. I find there is a proposal for the circulation of this Bill to elucidate public opinion. We may not go so far but as the issues involved are grave, we will lose nothing if a little more

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thought is given to this problem. I would, therefore, earnestly request the hon. Minister to refer this Bill to a Select Committee, so that, if I happen to possess a view and I feel strongly about it, it may be discussed in the Select Committee. There would be no loss in that and I hope the hon. Minister will accept my proposal.

Mr. Speaker: In the House of Commons the practice that is followed is that as soon as Parliament meets—and yearly also—a number of committees are appointed for various departments. They are not for the purpose of advising the Government. They are standing committees to which automatically every Bill is referred for vetting. The departments no doubt take extra care to prepare the drafts of the Bills that are placed before the House. However carefully it may be done there may be something more to be done and others also may make some contribution. I feel that we must have some similar practice here so that we may refer every Bill that comes up to a Committee of the House so that we may know the combined opinion, and also whether the hon. Members are for or against, and whether the Government accepts them or not. I am seriously considering why we should not follow the practice of the House of Commons. The House as a whole is entitled to bring to bear its own opinion apart from the question being considered by the Government. It can be done unless there are exceptional circumstances where there is absolutely not a day to be spent. Originally we considered in the Business Advisory Committee that this matter might go to the Select Committee. There is no harm in that. Tomorrow is a holiday and day after tomorrow is also a holiday. If it is referred to a Select Committee, we can have it back even on Monday. The hon. Ministers may consider that.

The Minister of Commerce and Industry (Shri Lal Bahadur Shastri): Sir, the first point is of course, a general matter and we will abide by whatever decision is taken by the Government in consultation with the hon. Speaker.

In regard to this particular measure, if you so desire, I shall have no objection to its being referred to the Select Committee but it will have to be a joint Committee. Secondly, I would very much like that this Bill is passed in this very session. We are very particular about that because we have to take immediate steps or measures in regard to certain commodities, about jute, as my hon. colleague had said, the position is getting really difficult and we do want to take some action. Unless this Bill is passed, we have not got the powers to take any such action.

Mr. Speaker: There is no difficulty about getting it passed in this session.

Shri Heda: I may submit that the purpose of referring this to the Select Committee would not be fully served if it is rushed through. In the Select Committee, not only the opinion of the Members would count but the evidence and the opinion of the interests concerned producers, forward market-interests, industry etc.—should also be taken into consideration. From that point of view, if we rush through it in the Select Committee, the purpose would not be served. I do not find there are any provisions here which are so urgent or important that unless we rush through this Bill and pass it in this session Government will not be able to do much.

Shri A. P. Jain: May I add a word, Sir? This measure has been under the consideration of the Government for more than a year, perhaps for about two years. It is true that certain situations may have arisen, but I do not think that those situations are

of such supreme importance or such a grave injury is likely to be caused as not to allow this matter being given a little more consideration. I think, Sir, it would be better if this Bill is referred to a Select Committee.

Shri Warrior: Even when the original Act was passed the producers who are more concerned than all others were not consulted. The State Governments have also got some experience of this because only in recent years these markets have spread through India. Formerly this market was concentrated in Bombay and then it extended to Calcutta. Now even the foodgrains market is affected by this. It is true, there may be some urgency but, at the same time, it must, be more comprehensive and the present situation also must be taken into consideration. I, therefore, think that a Select Committee will have to go through this more seriously and then make the necessary amendments. The only urgent measure contained in this is the appointment of one more member to the Commission. That may be very urgent because the work is increasing day by day. In regard to all other matters, it is very important that the interests concerned are consulted and the Bill goes through the processing of a Select Committee.

Shri A. P. Jain: The operative portion remains the same. Now the Forward Markets Commission has power to prohibit forward trading in respect of certain commodities. In the future also that power remains. The only thing now provided for is some higher punishment, maintenance of certain registers and submission of certain returns etc., setting up of recognised associations etc., They will certainly take time. Government will have to frame rules and do other things. By and large, there is no urgency in these matters and nothing can be done all at once.

Shri Lal Bahadur Shastri: No, Sir. In fact, Shri Jain supports our step. If there is not going to be any major change in this Bill he should have no

objection. If the Bill has to be considered in a much wider context, well, there can be another occasion and the Bill could be referred to a Select Committee. But there are many other matters and it is not only the case of jute. Hon. Members have laid stress on stabilisation of prices, especially the Members of the Communist Party, and I am surprised that they should suggest a step which will delay this measure.

Shri Indrajit Gupta (Calcutta-South West): We want more effective steps.

Shri Lal Bahadur Shastri: But let us take some effective steps. You are preventing me from taking some effective steps at the present moment. According to your advice, Sir, I was prepared to agree that this matter may be referred to a Select Committee, but as I requested you before we would like to have this Bill passed by both the Houses during this session.

I do not want to take your time, Sir, but I would like to point out that there are many things provided for in this Bill. For example, there is kerb trading. We propose to take steps against kerb trading. For this we thought it proper that if kerb rates are published in newspapers it will have to be stopped. There are other matters also.

Shri Naushir Bharucha: This Bill is not going to stop all that.

Shri Lal Bahadur Shastri: In spite of the Indian Penal Code and the Criminal Procedure Code robberies and dacoities are taking place—that is a different matter altogether. But the point is that we have to take some steps. In fact, Shri Jain wants to widen the scope of the Bill. He wants that all commodities should be banned except those in which Government allows a regulated trading. Well, if, for example, we have got 14 items in which there is regulation and control, we can increase the number to 20 or 25. It all depends upon the

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strength of our staff and organisation. Up till now we did not want to extend these controlled markets. My idea is that we should do it. So, in a way, we will be meeting Shri Jain's point of view. I would, therefore, request you, Sir, that this Bill may be allowed to be proceeded with. There is hardly any time for it to be referred to a Select Committee. If it is referred to a Select Committee we will not be able to get it passed during this session. So, because of the necessity of stabilisation of prices—we may not be able to do much, but we should be allowed to do whatever could be done—I humbly request that the Bill may be proceeded with.

Mr. Speaker: If it were only a matter of a couple of days, I thought we could get through with it. Now it appears that bigger things are sought to be done. The hon. Minister will later on think about the further changes that may be necessary. This will be an emergency measure dealing with the immediate problems and, of course, a long range view will be taken later on.

Shri A. P. Jain: With your permission, Sir, may I again appeal to the hon. Minister? Where is the urgency about any of the provisions contained in this Bill? In fact, the Government will more or less, be tinkering with the problem which will be ineffective.

श्री कौरकर (हैदराबाद) : अध्यक्ष महोदय मैं भी इसी राय का हूँ कि यदी यह बिल सिलेक्ट कमेटी को भेज दिया जाए तो बहुत ही ठीक होगा ।

इस फारवर्ड कांट्रैक्ट के बारे में जब यहां पहले आश्वासन दिया गया था उस वक्त यही कहा गया था कि दामों में बहुत ही बढ़ती हो रही है और इस वजह से फारवर्ड कांट्रैक्ट किसी न किसी तरह से बन्द किया जाना चाहिये । इस आश्वासन से यह मालूम

होता था कि फारवर्ड कांट्रैक्ट पर बहुत सख्त पाबन्दी लगायी जाएगी, लेकिन जो बिल इस वक्त हमारे सामने आया है उसमें सिवाय इसके कि कुछ रजिस्टर और रखे जाएँ, या कुछ सजाएँ बढ़ायी जाएँ, या इन्स्पेक्शन ज्यादा किए जाएँ इससे ज्यादा कोई भी चीज नहीं है । आज पहला फारवर्ड कांट्रैक्ट ऐक्ट करीब करीब आठ बरस से हमारे सामने है, और उसके अनुसार काम हो रहा है । उसके अनुसार कारोबार होते हुए भी हम यह देख रहे हैं कि दामों में किसी तरह की भी सुस्थिरता लाने में यह ऐक्ट कमी कामयाब नहीं हुआ है । और इस तरह से यह बिल जो इस वक्त हमारे सामने है, यानी फारवर्ड कांट्रैक्ट अमेंडमेंट बिल, यह भी कोई ऐसी चीज ला सकेगा यह बिल्कुल अच्छी तरह से मालूम नहीं हो रहा है ।

बार बार यह जरूर कहा गया है कि इस वक्त ऐसी परिस्थित आ गयी है कि यह ऐक्ट इसी वक्त पास हो जाना चाहिए । लेकिन वह क्या परिस्थिति है यह अभी तक हमारे सामने नहीं आयी, और यह ऐक्ट इसी वक्त पास हो जाने से वह परिस्थिति यकायक कैसे खत्म हो जाएगी यह बात भी हमारे सामने नहीं आयी । फारवर्ड कांट्रैक्ट ऐक्ट होने के बावजूद दाम बारबार बढ़ते जा रहे हैं । सब से बड़ी चीज जो कि इस कानून में की जाएगी वह यह है कि एक रजिस्टर्ड एसोसिएशन खोलने की छूट दी जाएगी । मेरी राय में तो यह ऐक्ट फारवर्ड कांट्रैक्ट रेग्युलेशन ऐक्ट होने के बजाय फारवर्ड कांट्रैक्ट फरदर रिलीफ ऐक्ट हो जाएगा ।

13 hrs.

बात यह है कि फारवर्ड मार्केट्स कमीशन के सामने करीब ३२६ दरखास्तें इन पिछले आठ बरस में आयी थीं और उन में से सन् १९५९ तक शायद सिर्फ २३ दरखास्तें ही मंजूर होनी थीं और एक दो और कोई मंजूर हो चुकी होगी । फारवर्ड मार्केट्स कमीशन ने बार बार जगह जगह

पर अपनी रिपोर्ट में कहा है कि बावजूद हर तरह की पाबन्दियां लगाने के दूसरी चीजों में भी इसी तरह का स्पेकुलेशन होता जाता है बहुत सी चीजें जो खिलाफ कानून हैं वह बराबर हो रही हैं। बात यह है कि अगर स्पेकुलेशन कोई क्राइम या बीमारी है तो उसको पूरी तरह से बन्द हो जाना चाहिए। और अगर यह क्राइम यह बीमारी पूरी तरह से बंद नहीं होती तो यह इस तरीके से हर वक्त नुकसान पहुंचाती रहेगी। मैंने आज तक कभी नहीं सुना है कि कोई महामारी कभी मुल्क में फैली हो और उसको मिटाने का कोई कानून हो तो उसमें यह व्यवस्था रक्खी जाय कि इतना ऐपीडैमिक रह सकता है, फलां जगह रह सकता है और फलां फलां जगह नहीं रह सकता है अथवा फलां लोग बीमार रह सकते हैं और फलां बीमार नहीं रह सकते हैं। मेरी यह पूरी राय है कि स्पेकुलेशन पूरे तरीके से बंद हो जाना चाहिए वरना जो चीजों के दाम बढ़ते ही चले जा र हैं वह कभी भी कम नहीं हो सकते हैं।

अध्यक्ष महोदय, इसके बारे में मैं एक रिपोर्ट जो कि अमरीका में दी गई है वह सामने रखना चाहता हूं और वह यह है कि वहां पर बहुत वक्त यह कहा जाता है कि यहां भी फौरवर्ड कंट्रैक्ट्स की वजह से प्रोड्यूसर्स को किसानों को कुछ न कुछ दाम मिल जाते हैं और उसकी वजह से उनको सहूलियत मिलती है। यह एक बड़ी अजीबो गरीब चीज मालूम होती है कि फौरवर्ड कंट्रैक्ट्स जिनका कि ताल्लुक हर वक्त व्यापारियों से होता है वह काश्तकारों के साथ बहुत ही सहानुभूति दिखलाते हुए अपना कारोबार करने हैं इस बारे में अनुसंधान होने की बहुत सस्त जरूरत थी।

पुराने फौरवर्ड कंट्रैक्ट्स ऐक्ट में दफा २५ के तहत एक ऐडवाइजरी कमेटी मुकर्रर की जानी चाहिए लेकिन बहुत अफसोस का विषय है कि पूरे ८ साल होते हुए भी यह ऐडवाइजरी कमेटी मुकर्रर नहीं हुई।

फौरवर्ड कंट्रैक्ट्स कमिशन के साथ ही साथ अगर यह ऐडवाइजरी कमेटी भी होती तो वह ऐडवाइजरी कमेटी इस बात को बतला सकती थी कि इस ऐक्ट के होने से कोई फायदा हुआ है कि नहीं। जरूरत तो इस चीज की है कि जो फौरवर्ड कंट्रैक्ट्स होता है इस सट्टे में जो मध्यस्थ आते जाते हैं उन बिचिलियों की संख्या जितनी कम हो सके होनी चाहिए और अगर वह संख्या बढ़ती ही जायगी तो फिर चीजों के दाम भी वैसे ही बढ़ते हुए चले जायेंगे और इन बढ़ते हुए दामों से इन मध्यस्थों के अलावा अन्य कोई लाभ नहीं प्राप्त कर सकता है। अगर यह ऐडवाइजरी कमेटी होती तो इस बारे में कुछ न कुछ तहकीकात करती और जांच पड़ताल करके यह बता सकती थी कि फौरवर्ड कंट्रैक्ट्स रेंगुलेशन ऐक्ट की वजह से कोई फायदा हुआ भी है या नहीं। बहुत अफसोस है कि वह चीज नहीं हुई। जरूर इस बारे में अनुसंधान होना चाहिए। अमरीका में इस के बारे में अनुसंधान हुआ कि जो स्पेकुलेशन होता जाता है उसके कारण जो असली दाम काश्तकारों को प्रोड्यूसरों को मिलते हैं और जो दाम प्रोफिटियर्स को मिलते हैं, उनमें आपस में क्या अनुपात रहता है। अध्यक्ष महोदय, मैं आपके सामने वह व्योरा रखना चाहता हूं। सन् १८५० में प्रोड्यूसर्स को जो भी चीज बिकती थी बाजार में उसका ८० फीसदी उनको मिलता था और २० फीसदी व्यापारी को जाता था। १८६० में ७५ फीसदी प्रोड्यूसर्स को मिलता था और २५ प्रतिशत व्यापारी को जाता था। सन् १८७० में ७२ फीसदी प्रोड्यूसर्स को मिलता था और २८ फीसदी व्यापारी को जाता था। मेरे कहने का मतलब सिर्फ यह है कि इस जमाने में मार्केटिंग बड़ी कम्पलीकेटेड होती चली जा रही है और इस कम्पलीकेटेड मार्केटिंग में आज जो चीजों के भाव बढ़त हैं तो उसका ज्यादा हिस्सा मार्केटियर्स को मिलता है। यह समझना कि फौरवर्ड कंट्रैक्ट्स की वजह से काश्तकारों को प्रोड्यूसरों को कुछ ज्यादा

[श्री कोरटार]

हिस्सा मिल जाता है यह एक गलत आइडिया है। सन् १८९० में वह अनुपात ६३ और ७० फीसदी हुआ। सन् १९०० में ६० और ४० फीसदी हुआ। सन् १९१० में ५३ फीसदी हुआ, १९२० में वह अनुपात ५०-५० का हो गया और सन् १९६० में जाकर इस वक्त प्रोड्यूसर को दाम का केवल २५ फीसदी हिस्सा मिलता है और ७५ फीसदी मार्केटिंग करने वालों को मिलता है। यह सच है कि यह आंकड़े भारत के लिए नहीं कहे जा सकते हैं लेकिन जैसे जैसे मार्केटिंग कम्पलीकेटेड होती चली जायगी जैसे जैसे फौरवर्ड कंट्रैक्ट्स बढ़ता चला जायगा उसका नतीजा आगे जाकर यही होने वाला है और हमको आज से ही इस बात की किसी तरह से पाबन्दी लगा देनी चाहिए ताकि प्रोड्यूसर को जो दाम का हिस्सा मिलता है वह इतना कम न हो और जाहिर है कि इसके लिए इस तरीके का ऐक्ट पास करने से कोई फायदा नहीं होगा। हमारी आर्गनाइजेशंस में कोई न कोई ऐसी बौडीज बननी चाहिए जो कि इस व्यापार को अच्छे तरीके से चला सकें। यह एक सीधी सादी बात है और यह मैं मंत्री महोदय के सामने रखना चाहता हूँ कि फौरवर्ड कंट्रैक्ट्स की वजह से आगे आने वाली स्थिति क्या है।

इसके साथ ही साथ थोड़े से शब्दों में मैं बतलाना चाहता हूँ कि जैसी इस बिल की दफात हैं उनमें कुछ ऐसी चीजें हैं जिन पर कि ज्वाएंट कमेटी में विचार होना बहुत ही आवश्यक है। मसलून सब से पहली बात यह है कि रजिस्टर्ड बौडीज जो नई कायम की जा रही हैं इनकी जरूरत है या नहीं है। मैंने अभी आपके सामने रखना कि ३२६ दरखास्तों में से खाली २३ दरखास्तें मंजूर हुई थीं यानी करीब करीब ३०३ दरखास्तें ऐसी थीं जो कि मंजूर होने लायक नहीं थीं। इनको बंद हो जाना चाहिए था लेकिन अब यह सब की सब बौडीज जितनी हैं यह सब

असोसियेशंस रजिस्टर्ड हो जायेंगी। कल के अखबारों में सट्टे वालों के लिए एक बड़ी भारी खुशखबरी होगी कि अभी तक जो आपको एक बड़ी भारी कठिनाई थी वह इस तरह से सहल कर दी है और यह बौडीज अंडर रजिस्ट्रेशन आकर अच्छे तरीके से काम करने लग जायेंगी इस पर बहुत गम्भीरता से विचार होना चाहिए और इसके लिए अगर यह बिल ज्वाएंट कमेटी में चला जाय तो कोई नुकसान नहीं होगा।

इसी तरीके से बहुत सी दफात हैं जो कि देखने में आती हैं और जिनमें कि कई चीजें बिलकुल सरसरी तौर पर रखी गई हैं। दफा ४ में जहां कि इसकी परिभाषा दी गई है कि रेकेगनाइज्ड असोसियेशंस क्या हो सकती है वहां बहुत सारा हिस्सा दफा ६ का भी उसमें रख दिया गया है और बिला वजह परिभाषा बहुत लम्बी कर दी गई है।

इसी तरीके से दफा ५ में इन असोसियेशंस को अदालती अधिकार दिये गये हैं ताकि वे मुकद्मात का फैसला कर सकें लेकिन यह नहीं साफ किया गया है कि वे मुकद्मात कौन से हैं वह सारे ऐक्ट में पुराने या नये कहीं पर भी नहीं मालूम होते हैं। अब ऐसी ऐसे अदालती अधिकार इनको देने की कोई जरूरत थी या नहीं थी यह एक बहुत ही विचार की चीज है।

इसी तरीके से रेकेगनाइज्ड असोसियेशंस को यह अधिकार दे दिये गये हैं कि वह कोई न कोई ऐसा कानून बना सकते हैं जिसका कि असर रिट्रीस्पैक्टिवली हो सके। अब रिट्रीस्पैक्टिव करने का कानून बहुत सोच समझ कर बनाना चाहिए और ऐसे अस्तित्परात बाईलाज बनाने का अधिकार एक दम से किसी भी असोसियेशन को देना यह एक अजीब चीज है और जिसकी कि वजह से बहुत बड़ा अन्याय हो सकता है। मुझे तो ऐसा दिखाई देता है कि सारी की सारी

दफात बड़ी ऊल जलल बनाई गई हैं और इन दफात पर और इन धाराओं पर बहुत ही गंभीरता पूर्वक विचार होना चाहिए और यह विचार विनिमय सेलेक्ट कमेटी में हो सकता है। इस लिए जो चीज श्री अजित प्रसाद जैन ने आपके सामने रखी है मैं भी उसका अनुमोदन करता हूँ और अगर यह बिल सेलेक्ट कमेटी में चला जाय तो कोई नुकसान होने वाला नहीं है। आपके ऐसा ऐक्ट के बन जाने के बाद भी मुझे तो इसका विश्वास है कि कलकत्ते में जो कहा जाता है कि जूट का बड़ी गड़ बड़ शुरू हो गयी है वह इस ऐक्ट के बनने से ही खत्म नहीं हो सकती है। इन चन्द शब्दों के साथ मैं अपने भाषण को समाप्त करता हूँ।

Mr. Speaker: Pandit Munishwar Dutt Upadhyay. Then I will call Shri Oza and then Shri Nathwani; also Shri Indrajit Gupta. We have allowed one hour for the clauses. There is no need for the third reading. Therefore, till 2-30 we will carry on with the clauses and dispose of the Bill. The general consideration of the Bill will go on till 1-30, because I find there are four more hon. Members who want to speak on this motion. We may take some 15 or 20 minutes more for the clauses.

I would also urge upon the hon. Ministers, not only in this case but in other cases as well, that whenever such matters come up, they may also pass on to the Lok Sabha Secretariat extracts from any opinions that they have received. I am sure that the Government gathers the opinions of various bodies in matters of this kind. Instead of allowing hon. Members to say what the producers and others have said, Government themselves may consult and circulate to hon. Members extracts from various opinions for and against. Generally, in respect of these matters, it is better to apprise the House of both the views, whatever decision Government may take ultimately.

Pandit Munishwar Dutt Upadhyay (Pratapgarh): Mr. Speaker, Sir, this Forward Contract Act has been working for about 8 years in our country. Although it is more or less a technical matter, and ordinarily people do not understand the intricacies of it, the subject-matter of this Bill before the House is much simpler an affair, because mostly I find that the provisions have been made for punishing the offences that are generally committed, about which there are complaints in the number of reports that we have received regarding the working of this Act. Before I proceed with the other provisions, I would like to say on the point whether the Bill is to be referred to a Select Committee or not, that, for these provisions, it is not necessary that we should have comprehensive consideration. Of course, if other amendments are to be brought in, that is a different matter.

Shri A. P. Jain: That is exactly what we want.

Pandit Munishwar Dutt Upadhyay: For the time being, urgency requires certain cases to be dealt with. There is no provision for deterrent punishment and such fines as have been imposed have been very small. On that account, there is no check upon the speculation of the persons who are committing irregularities and illegalities in the forward market. So, I would submit that it is proper to proceed with this Bill immediately and pass it. If other amendments are necessary, they might come later. After hearing the arguments of the Minister, I feel that with the immediate passing of this Bill irregularities and illegalities in the forward market may be checked to a certain extent although it is very difficult to remove them altogether.

The reports that we have been receiving regarding the working of the forward market disclosed a number of illegalities and irregularities which have been repeated almost every month. A number of cases are there but I find that the Commission has

[Pandit Munishwar Dutt Upadhyay] been taking very little action against the defaulters. The reports disclose that the number of prosecutions was very small. Even the bye-laws were not framed till now. So, there was a default on the part of the Commission itself. Government should have taken proper care to see that bye-laws were framed, prosecutions were launched and that proper action was taken against the defaulters. But now they find themselves in a difficult position. The speculators have gone to the extent of committing offences hundred times, because they are fined only a few rupees.

If deterrent punishment is provided and if they are sent to prison for a few days or months there might be some check. The irregularities that have been generally reported were of *dawa* trading, kerb trading, etc. which are serious offences. Also, trading has been going on in the commodities which are prohibited and where no trading can take place. A suggestion was made just now that the provision may be charged altogether to the effect that in the case of those commodities in which trading outside is allowed and is not prohibited, they should not be prohibited; otherwise, all the rest of the commodities should be prohibited. If that amendment comes, it will be very comprehensive and it might cover the entire ground leaving a few commodities only. But so far as this Bill goes that is not the amendment before us.

The other complaint we have been receiving is regarding trading in options also. I do not know what provisions are there and whether they are good enough to control the market. There are some steps which are being taken now and if deterrent punishment is provided, it is likely that we might to a certain extent check the offences that are being committed in the market.

The provisions in this Bill which are very welcome are those for giving

authority to police officers to search the premises of any firm for account books and other documents. As a matter of fact, in these transactions, no documents are available and matters are oral. There is no recorded evidence of it. Even if prosecution is launched, it is difficult to convict the accused. So, it is absolutely necessary that the police officers are authorised to seize some sort of account books which are kept in the offices so that there may be some documentary evidence of such offences.

The other difficulty is that the Commission has no power to call witnesses or examine them on oath. This provision has now been introduced and it might help to a certain extent.

Previously members of associations who were defaulters could not be suspended. Now the amending Bill provide that they can be suspended. This might have some check over them.

Registration of all the associations is being made compulsory. That is one thing by which some complete comprehensive record can be kept of all the associations and the defaulting associations may be brought to book.

The last thing is the provision for deterrent punishment for persons who are previous convicts. This provision is very essential. Objection was raised yesterday by Shri Morarka that for the second offence imprisonment is being made compulsory and that this should not be done. As a matter of fact, I may remind him that even under the Indian Penal Code for '*maaarpeet*'—grievous hurt—under section 325, imprisonment is compulsory along with fine. So, it is not so bad. Of course, there is another provision where the presumption of guilt will be against the accused. This appears to be a little more serious. He has to prove the contrary. That is a difficult task. But considering the circumstances of the transaction—it is all oral and it is almost a chaotic condition prevailing in the forward market—I do not think that it is possible for the prosecution

to prove any offence or guilt unless there is a provision like this. That is why I reconcile myself to it. Otherwise, this provision is, obviously, very pernicious and it should not be made. But under the circumstances prevailing in the forward market, we can accept it.

Yesterday Shri Nayar started by saying that this Act should be repealed altogether. I do not know what he means by it. Does he mean that without the Act things will go on straight or does he want chaos in the market? He said in the IPC, Cr. P.C. and elsewhere there are provisions which can very well cover the offences committed in this market also. But how far are they effective? When a special enactment is made for the purpose of controlling these markets and still the market is not being controlled properly and the hon. Minister has to come forward with an amending Bill to have more powers for the Commission, I do not know how, in case the Act is repealed and we depend on the general law for punishment of offences that will be effective in the case of these markets.

Then he wanted the Bill to be circulated. As I said, there are very few people who understand the intricacies of the market and can give any opinion about it, and, that is, those very people who are participating in the market for speculation. They understand the working of the market and it is only they who may be able to give some opinion about it. The circulation of the Bill to the people in general or persons who know little about it will be of no avail. Therefore, circulation of the Bill is out of question. A Select Committee may be more appropriate for more comprehensive amendments and it might then be brought in. As regards repealing of the Act, that will only create a chaotic condition. Therefore, I submit that the Bill may be adopted, as it is, without any amendments.

Shri Oza (Zalawad): I can very well appreciate the feeling of several hon. Members who spoke before me about the priceline. I am only equally anxious that we have to see that the priceline is held at a proper level. Otherwise, as was rightly pointed out, our Third Plan on which we have stated so much will perhaps fail. But could we find fault with the Forward Markets Commission for the way in which it has functioned? I think we are laying the blame on wrong doors. I hold no brief for the Forward Markets Commission. But do we not know that the prices are going up and cannot be controlled because of the large money supply that has been injected into the community, because of the projects that we have undertaken which have long gestation periods, because production is not speeded up? Do we not know that because of these things priceline cannot be held. It does not mean that the Forward Markets Commission is not functioning well. I think it is not a correct line to take.

I know that forward marketing has been going on in this country for the last so many years. I remember even before 1950 there were so many places where so many markets functioned in a chaotic condition. For the first time in 1952 we tried to instil some discipline in these markets by bringing the Forward Contracts (Regulation) Act. That discipline has to be slowly and gradually instilled, I think; it cannot be imposed all of a sudden. We want the trading community to observe some traditions, some conduct and some mode of behaviour. We have to instil a sense of discipline in this community which has been undertaking this forward trading for the last so many decades, as I have been saying.

If you see the operation of the Act and the manner in which the Commission had been functioning, by and large, you must say that it has done well. If you read the report of the Reserve Bank on "Currency and Finance" you will find that the Forward

[Shri Oza]

Markets Commission has taken appropriate steps in regard to certain commodities by imposing stiffer margin and by taking other steps whenever there was a need. Now the Reserve Bank has control over the whole fiscal and monetary policy of this country. Still, it has not been able to hold the priceline at all. It has got huge powers to impose selective controls on so many things. Still, we also know that, unfortunately, it has not worked as successfully as we desire. In the same way, the Commission has a very delicate and very arduous task to perform. It has to operate in a market where a large number of persons are operating. It has to counteract against the steps which are taken by certain people to disturb the economy in a certain way, for linked with that are the fortunes of so many people who in most cases are middle class people and also producers. So, the Commission has to function very vigilantly. At the same time, the task it has to perform is very delicate. I have been feeling that by and large the Commission has functioned well and it has taken appropriate steps at the appropriate time. So, I have nothing but a feeling of satisfaction in the way in which it has operated up till now.

Shri Lal Bahadur Shastri: But the Commission itself feels that it should have a little more power.

Shri Oza: I am only too glad that you have brought this Bill, and I wish it should be passed as immediately as possible, because in view of the jute crisis that we are facing we want to arm the Government and the Commission with whatever powers they want. We do not want them afterwards to give the excuse that for the lack of this power or that power they cannot control that particular commodity when it is required to be controlled. Therefore, I welcome this Bill.

I also welcome certain features of this Bill. For example, there is now provision for registration. Every association which indulges in forward trading shall have to be registered. It is a good thing, because so far there has been some confusion about trading and we did not know whether a particular type of transaction is permissible or not permissible. Now by this provision about registration I am sure they will be properly controlled. So, they will be benefited by this registration. It will also consider the articles in which they are trading and see to it that their prices do not go up. That will also be the responsibility of the Commission. So, I welcome this provision and I am sure that it will benefit the market also and we will make the work of the Commission on the whole a bit easy and successful.

Then, the Commission is armed with extra powers to take strong steps against those persons who are recalcitrant. Coming to clause 20, they are giving powers to an ordinary magistrate to issue a warrant to seize documents. Any first class magistrate can be approached by any person who is operating in the market, and who is losing perhaps quite a good deal, for the issue of a warrant for the seizure of documents. That will disturb the whole market. Such a responsible work, in my opinion, cannot be entrusted to an ordinary first class magistrate. Therefore, I have moved an amendment that this work should be entrusted to a district magistrate. He knows the trading community and he can decide whether a party approaches him for a genuine grievance or he only wants to disturb the market. Because, taking such an action is a very serious matter. So, we should not entrust that work to an ordinary first class magistrate; we should entrust it to more responsible officers. Therefore, I have moved an amendment which, I hope, the hon. Minister will

accept. I will come to that when we take up the clause by clause consideration.

Shri Nathwanl (Sarath) I rise to welcome the Bill as it contains several wholesome provisions, though I would point out that it does contain a few provisions which are not satisfactory. The previous speaker very ably pointed out how there are several factors today which are operating in the country and how in those circumstances the priceline could not be stabilized and how it is not fair to blame the Forward Markets Commission for the failure to stabilise the prices. It was also stated that the Act has acted well. I do not agree with that. I am aware that if the Act or the Commission has not succeeded in regulating the market to the extent to which it was expected to function within the limited sphere available to it, the reason was that the powers that were going were not adequate, and that is the precise reason why added powers are sought to be given in this Bill.

But looking both at the contents as well as the manner in which these provisions are couched I did feel, and I do feel today, that it would have been better if this Bill could have been referred to the Select Committee, and I wish that a compromise had been arrived at whereby the passage of the Bill would not have been delayed beyond the present session. But that is not to happen and we have to make the best of the situation.

13-30 hrs.

[SHRI HEDA in the Chair]

The existing provisions fell very far short of the requirements and that is why several additional powers are being conferred under the present Bill. Several hon. Members have enumerated them and have tried to show the reasonableness of the neces-

sity of introducing those measures. Thus, reference was made to the provision for registration of associations. Also, a reference was made to increasing the activities of the Commission. Then under the Bill the contravention of the provisions of the bye-laws is made illegal. There is a difference between a contract being made void and it being made illegal because if you simply make a contract void the collateral transactions are not thereby affected, but if you once make it illegal, even those operations would be covered. For instance, a commission agent paying money or receiving monies under a void contract would be entitled to recover it from his principal or to pay the sum to his principal. But there are some provisions in the Bill which appear to me to be highly objectionable. I will point out some of them.

Take for instance clause 6 under which a new section, section 4A, is sought to be introduced. Under subsection (2) the Commission is being given power whereby the Commission can require any person, subject to privilege which may be claimed, to furnish information on such points or matters as, in the opinion of the Commission, may be useful for, or relevant to, any matter under consideration. In my opinion it would have been quite sufficient if information which was sought for by the Commission was to be useful or relevant to any matter under the consideration of the Commission. But here in the Bill it has been mentioned that whether it is useful or relevant is also to be decided by the Commission. I cannot understand why this expression 'in this opinion of the Commission' has been introduced here. Of late we are becoming so fond of this expression that while conferring powers upon the executive we always say "if in the opinion of the Government or the particular authority concerned it is desirable or if he is satisfied". There may be circumstances to justify this subjective test, but here when you say that the information must be useful for or relevant to

[Shri Nathwani]

the matter under consideration, the matter should have stopped there. Why do you want to confer this further power, namely, of making the usefulness or relevancy of the matter a matter of opinion of the Commission? That is objectionable.

Then I come to clause 13. There we find that under new section 12B power has been given to the Commission not merely to close the transaction in the market.....

Mr. Chairman: I may suggest to the hon. Member that he may take that up at the time of consideration of the particular clause.

Shri Nathwani: I am thankful to you, but I may not take the time of the House at that time. I am merely pointing out how in several respects the Bill is defective. If the matter had been referred to the Select Committee, such defects could have easily been cured. Now that there is no time for that, I am trying to point them out.

I was trying to point out that the power of the Commission to close the individual transaction is objectionable. In my opinion even if such a power were to be conferred.....

Shri A. P. Jain: It exists under the present law.

Shri Nathwani: No, not of closing the transaction of an individual member. I will be thankful to the hon. Member if he points out that power. I can understand the general power under which in regard to an emergency having arisen the Commission has the power to stop the business altogether and close the outstanding transactions at a particular rate; it does not operate to the prejudice of any particular person. This may savour of discrimination. Therefore, a suggestion was made that if at all Government is to exercise this power

or if at all such a power has to be conferred on the Commission, such a power should be used in consultation or after consultation with the board of that association.

I come now to the provisions contained in clauses 17, 18 and 19. I am afraid that they are expressed in wide terms. For instance, I am taking new section 20, sub-section (ii) which says that any person who—

“fails to furnish any return, statement or other document or any information or to answer any question or to comply with any requisition made under this Act.....”

You have to see that if he fails to furnish any return or to give information or to answer any question, it does not go with something which is sought under the Act. So the Commission can ask any question it likes. I know that is not the intention. That is not what is sought to be done. But the intention is to be gathered from the words used. If you express your intention in very wide terms, it is liable to be abused. Sometimes such things do occur. Therefore it is highly necessary to express your intention in words not too wide or too narrow to give expression to that intention. I am merely pointing out one further instance of how the language used is rather loose. It required to be checked up, otherwise it opens the doors too wide for arbitrariness or capriciousness on the part of those who have to govern it.

Lastly, I do feel that the minimum punishment of imprisonment of one month is uncalled for, particularly so when, as I pointed out, in the preceding portion of section 20 you say that failure to answer any question or to give any information which is called for is also penal. Therefore even for such technical offences within the four corners of the law it is possible to have more than one punishment and in such cases to inflict a

month's punishment in any event is not at all justified. It is not at all called for. This discretion should have been left to the courts because both things are sought to be imposed, namely, imprisonment as well as fine. What should be the period of imprisonment should have been left to the discretion of the court and it should not have been made one month as has been done here.

Before I sit down I want to point out one serious flaw in this Bill. We have made provisions in the existing Act that contravention of certain bye-laws will render the contract void. Now we have gone a step further. We have made such contravention illegal which is punishable also. But one thing which should have been done has not been done, namely, the bye-laws on the rules and regulations of that association must specify that the contravention of certain bye-laws shall render the contract either void or illegal. In the absence of such a specific provision in the bye-laws themselves the contract is neither void nor illegal and the merchants can drive a coach and four through the entire Act under the whole set of rules or bye-laws. I have come across such lacunae in several sets of bye-laws in Bombay. The idea under the Act is this that there should be two sets of bye-laws. One is bye-laws which go to the form or the making of the contract and the manner in which it is to be made. These are considered vital and essential bye-laws. The idea was that their contravention should entail the consequence of the contract being rendered void. There may be other bye-laws, not so important. They may be of an administrative or routine nature. Therefore, it was not thought fit to render a contract which did not comply with them as void. That is why this distinction was sought to be made. That is why power was given to the Association itself to specify those bye-laws the contravention of which would have this particular result. You are saying that contravention

would make it either void or illegal. If the Associations themselves do not specify, I ask this question, what is the effect? It has happened and it is happening, I know from my personal experience. Even the Indian Cotton Association did not provide. I do not know the present position. There are other Associations; there is the Oil-seeds Association, none of which provided that the contravention of the vital bye-laws would render the contract void. It is not for the first time that I am drawing pointed attention to this. Pointed attention was drawn to this lacuna by me at the time of the passing of this Bill 1956. With the result that, as things stand,—they will stand even after the passing of this Bill,—if the Association does not include this particular item—they do not do so advisedly, deliberately, this consequence of rendering contracts void or illegal would not come about. That is all I have to say.

Shri Kanungo: Sir, I am at a disadvantage because I have a severe limitation of time because the hon. Speaker has directed that we must have at least one hour for discussion clause by clause. I will not go into the academical problems which were posed ably by Shri V. P. Nayar. I have no time to go into them; nor have I the capacity. Just I have to point out that all the arguments are almost cancelled by my friend Shri Warrior who brought before the House a telling example where the forward market is a cushioning organisation where violent fluctuations of prices are prevented. Shri Warrior brought to the notice of the House yesterday that at a certain given time, the price of rubber dropped down from Rs. 3 to one anna or something like that and the drop was not abrupt, not precipitate but step by step, thanks to the mechanism of forward contracts.

The other fundamental objection which has been raised by Shri A. P. Jain whose experience in these matters is perhaps much more wide spread than at least mine, is that the

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structure of the Act should be such that only those commodities which are permitted under section 15 should be traded upon and not the rest. I would humbly submit that even with the Act as it is, it is possible to do that because, today forty items, mostly foodgrains, are prohibited under section 17. There is nothing to prevent bringing in one thousand and one commodities under section 17. The only limitation is, you do not have the staff, you do not have the mechanism to enforce this law. I will give you a small example. Take the case of bullion. Forward trading in bullion is permitted under section 15 in Bombay. But the area prescribed is Greater Bombay, though it is a fact that trading in gold goes on widely. Unfortunately, historically this *tezi-mandi* business has been going on for not only 50 years, but perhaps for centuries. It is for the first time since 1950 that some sort of regulation has been attempted in this. This Bill is not intended to, I would humbly submit, is not capable of holding the price line or preventing fluctuations as such. All it claims to do is that at one corner, in one way, it can minimise the effects of sharp fluctuations. Holding the price line will require various attacks from many directions. This particular provision of law still is very necessary. But, it is a part of it only. When applied in conjunction with other measures, it is likely to give results.

As far as the Bill is concerned, it does make serious changes. They are not in consequential changes, changes which, judging from the speeches which I have heard yesterday and today, are considered by the Members to be very necessary. The original Bill was designed with the intention that the regulatory functions would be exercised by the Associations themselves. In fact, the Government was not armed with any powers and deliberately so. Reading the debates of that time, it will be seen that the

hon. Minister who was piloting the Bill at that time expressly said that powers are not being taken because the scheme of the Bill was that the executive committees of the recognised Associations will regulate themselves. Unfortunately, that anticipation has not been fulfilled. Therefore, we are trying to take certain powers which are necessary. But, we are not taking the whole regulation of it. Even today, these powers which are taken are concurrent powers. We have not taken overriding powers. These are concurrent powers in the sense that where the Associations fail to take action, the Commission is empowered to take those actions.

Broadly speaking, the more drastic power which is being taken is as Pandit Munishwar Dutt Upadhya pointed out, which is certainly a little obnoxious to the sense of all jurists—is to cast the burden of proof upon the accused to prove his innocence. In this type of cases, there is no other way. I would not take the time of the House. I will just mention that there are more than half a dozen enactments of this House in which this onus has been shifted from the prosecution to the accused, some of them being the Foreign Exchange (Regulation) Act, Banking Companies Act, Essential Supplies Act, the Bombay Prohibition Act, Prevention of Corruption Act, and the Sea Customs Act. Because, from the very nature of them, the onus of proof cannot be discharged fully.

One of the powers which have been taken under this Bill is that documents could be seized now with the permission of a first class magistrate. Here, I would refer to Shri Oza's point. I appreciate very much that it should not be done by all magistrates. I would have been willing to consider his point, but I feel that off hand I would not be able to do so. I feel that the organisational set-up today is such that the district magistrate is just one person in whom two functions

are combined. The power which has to be exercised by him here is a judicial power which is exercisable by all first class magistrates. A district magistrate is, after all, a first class magistrate; he is not lower in rank a first class magistrate. In any case, it will be open to the district magistrate administratively to designate such officer and such magistrate in the district as can hear such types of cases.

Shri Oza: I think my hon. friend is under a misapprehension. That would not be possible. Any person can approach any first class magistrate and procure a warrant, and that would disturb the whole market. Very wide powers are being given.

Shri Kanungo: That is in line with the various Acts to which I have made a reference. In the Companies Act, it is provided like that.

Shri A. C. Guha: (Barasat): Similar provisions have been laid down in various other Acts; a first class magistrate can issue a warrant of search.

Shri Kanungo: An officer is empowered with the powers of a first class magistrate generally after a lot of trial and experience. He is expected to be a man of judgment. Therefore, he has been given the powers of a first class magistrate. This power to search documents and seize them has been provided for in many other Acts, and recently in the Companies Act also, we have provided for that.

The other provision which I think will be very useful is the one in regard to documents. So far, they have had to be provide under the Evidence Act, but generally the members of the association or the officers of the association or others have been reluctant to go into the witness-box and prove the documents, with the result that though the documents contained valuable material, they could not be proved under the Evidence Act.

In the Gambiing Act, and also in the Bankers' Act, it has been provided that documents *ipso facto* will be taken as evidence, and that is what is being done in this amending Bill also. This will go a long way in proving offence which so far it has been difficult to prove.

Mention was made yesterday about the work of the commission in prosecuting 110 persons in Calcutta. The result, unfortunately, was that after two years of trial almost the maximum punishment awarded was just a fine of Rs. 30. I do not blame the judiciary. I do not blame anybody for that. But conditions being what they are, it is difficult to appreciate what type of offences are, as Shri Morarka has called, technical offences or commercial offences. There can be technical breaches of the law, and the magistrates, and the prosecuting agency, that is, the investigating agency, have got to bear this in mind fully. Here, I can assure my hon. friend that where these powers are used, they will be used judiciously, and we shall try to write it out in executive instructions or maybe, anywhere else also; I do not know how it can be done, but it will be laid down somewhere that the powers should be used judiciously and not for vexatious purposes. This will cover the drastic power which we are taking; as was rightly pointed out by my hon. friend Shri Morarka and another hon. Member, the power of the commission to suspend any member from operating in the market is certainly a drastic power. When the main Act was before this House, it was anticipated that the board of directors, being responsible businessmen and being the custodians of the reputation of the trade, and the members of the community would exercise some disciplinary powers, but, unfortunately, that has not happened. It is not the particular fault of our citizens in India. Similar situations had arisen in the U.S.A. also, because I find from the law of U.S.A. that their regulating authority also has the power to suspend individual members. When an individual member is

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suspended, as Shri Morarka has rightly pointed out, the questions of closing the contract comes in. It is inevitable.

The point is how it has to be closed. If conditions were normal, one could think of it, but from the very nature of these operations, these powers will be brought into force when there are rather abnormal conditions. The only assurance that I can give is this that we shall again lay it down in executive instructions and provide otherwise also if possible, that in normal circumstances, a certain procedure should be followed so that people could know how the closing is to be done; in exceptional circumstances, Shri Morarka will agree with me, no one can predict what will happen.

Again, as regards the urgency of this Bill, about which some Members have been doubtful, I am glad that my task has been lightened by many hon. Members who have spoken and who have also said that this Bill is very urgent.

We are also making it an offence to manipulate prices or to publish or circulate information relating to kerb trade. This is the first time that we are trying to prevent what can be called unauthorised trading. Unfortunately, kerb trade has been a bad thing everywhere. I am told that in the USA, it was so bad that millions and billions of dollars were wasted, and simple innocent citizens were being cheated by the so-called 'bucket-shops'. Not merely by one Act, but by various economic and social factors, that evil has been more or less eradicated there, I am told, somewhere about 1930. Here, for the first time, we are taking power to make it illegal, and for the first time, we are taking powers to differentiate or to make a sharp distinction in the twilight, between legitimate trade and illegitimate trade. It will depend not only upon the vigilance of the commission but also on the alertness of the law-enforcing authorities in the various States. The work of the commission will be a long one, because the commission will

have to persuade the law-enforcing authorities in the States to understand the implications of these acts, that is, the social implications of these acts, and act with promptitude and firmness. Here again, I listened with great interest to the suggestion of Shri A. C. Guha who comes from Calcutta and who rightly pointed out the state of affairs in the Calcutta market and saved my time and energy, because I could not have put it better. Shri A. C. Guha suggested that we should try to set up central prosecuting and investigating agencies. With all respect to him, I would submit that the very structure of our Constitution is different. Though it may be slow and irksome for some time, we must carry the States with us in the policies which we decide upon in India, because India is a conglomeration of States. It is not a unitary State. One State cannot be left behind; we cannot progress further in that way. Lately—in the last few months—the prosecuting agencies in one State at least—I am referring to Bombay—have been very alert and by their alert action they have been able to prosecute guilty persons, which has had a deterrent effect on the erring sections of the community. I hope the investigating and law-enforcing agencies in Calcutta and other States will gradually become alert to it.

14 hrs.

The other point which was made is about the power of the Commission to summon persons, for which powers have been conferred on the Commission under the Civil Procedure Code. This is a common provision in several other pieces of legislation also. Without it, the Commission has not got the power to summon anybody or ask him to produce documents and so on. Shri Nathwani mentioned about it. This is the usual provision that is made.

Shri Nathwani: My objection was not to those powers but to putting

questions which may not be germane to the inquiry.

Shri Kanungo: As regards the phraseology, I was told that this was the only phraseology by which you gain your objective. At any rate, as you will see from clause 4, we can trust that the members of the Commission will exercise their responsibilities with judiciousness. But such powers are necessary, because apart from the members of an association, whether recognised or registered, the members will have ramifications with other clients and their books and records have got to be looked into under certain circumstances.

As my time is running fast, I will not take any more time to comment upon the various valuable suggestions and comments made. I hope that by the passage of this Bill . . .

An. Hon. Member: Nothing will happen.

Shri Kanungo: I am not so pessimistic as my hon. friend. I hope with the passage of this Bill, at least the grosser forms of this malady will be eradicated.

Shri A. C. Guha: In the existing Act, there is a section for making bye-laws by the Government. But there is no provision saying that those bye-laws should be placed on the Table of the House. In all other enactments, that is the provision. Unless those bye-laws are placed on the Table of the House, I think Parliament's control over delegated legislation will not be complete.

Shri Kanungo: There is an amendment to that effect by Shri Ajit Singh Sarhadi. Therefore, I do not refer to that.

Shri A. C. Guha: The annual report is also not placed on the Table. This is a very important Commission. If the annual report is not placed on the Table, it will be very difficult for the House to get seized of the report

and to have a debate thereon. So I think the Minister should declare that that report will be placed on the Table.

Shri Kanungo: I will seek the direction of the Speaker about that, because the printing of 2000 copies of the report is rather expensive. Even today we place sufficient number of copies of the report in the Library. But as regards the suggestion of the hon. Member, I will communicate with the hon. Speaker and get his directions.

Shri A. C. Guha: My suggestion is not that all the Members should get it. But whatever number of copies may be supplied to the Library, first those copies should be placed on the Table.

Shri Kanungo: If it is placed on the Table, it means that it should be circulated to every hon. Member.

Shri Naushir Bharucha: Not necessarily.

Shri Warrior: Even as regards placing copies in the Library, the latest report we have in the Library is of 1958.

Shri Kanungo: I must apologise for that. I forgot to mention about it. I am sorry that the report for 1959 was delayed. Whatever be the reason—I can say frankly that the delay in printing—I will take care to see that the report of the Commission is available to hon. Members as quickly as possible.

Shri A. C. Guha: And placed on the Table of the House also.

Mr. Chairman: There is a motion for circulation of the Bill moved by Shri V. P. Nayar. That has to be disposed of first.

An. Hon. Member: But Shri V. P. Nayar is not here.

Shri Warrior: It stands in my name also. But I do not press it.

Mr. Chairman: There is one technical difficulty. The amendment was moved by Shri V. P. Nayar alone. So I will have to put it to the House.

The question is:

"That the Bill be circulated for the purpose of eliciting opinion thereon by the 31st January, 1961". (19)

The motion was negated.

Mr. Chairman: The question is:

"That the Bill further to amend the Forward Contract (Regulation) Act, 1952, be taken into consideration".

The motion was adopted.

Mr. Chairman: There are no amendments to clauses 2 and 3. The question is:

"That clauses 2 and 3 stand part of the Bill".

The motion was adopted.

Clauses 2 and 3 were added to the Bill.

Clause 4—(Amendment of section 3)

Shri Warrior: I beg to move:

Page 2, line 11,—

add at the end—

"and have no connection direct or indirect with anyone in the trade". (13)

Here it is provided that the members to be appointed shall be persons of ability, integrity etc., etc. The qualifications as given here are very vague, as for example:

"relating to commerce or commodity markets, or in administration or who have special knowledge or practical experience in any matter which renders them suitable for appointment on the Commission".

But one specific thing is that these persons must be at least above suspicion, and they should not have any connection with any of these trading houses or persons. If they have some such connection, they will not be entitled or qualified for appointment on the Commission. I say this because on this Commission hinges the entire work of supervision, vigilance and action against the malpractices going on in these markets. Hence it is very necessary that at least the personnel of the Commission should be above suspicion. This amendment is to that end and I hope the Minister will have no objection to accepting it.

Shri Kanungo: The point made out by my hon. friend is, I should say, elementary and this provision need not necessarily be written into it. The clause as it stands provides for administrative experience. The negative qualification that Shri Warrior has suggested is so elementary that we are not going to appoint anybody who has got direct connections with the trade. If at all anybody is chosen by Government, they must be sure that he is not so connected.

Mr. Chairman: I shall put amendment No. 13 to the vote of the House.

The Amendment No. 13 was put and negated.

Mr. Chairman: The question is:

"That Clause 4 stand part of the Bill."

The motion was adopted.

Clause 4 was added to the Bill.

Clause 5—(Amendment of section 4)

Shri Warrior: Sir, I move my amendment No. 14:

Page 2, line 21,—

after 'such association' insert—

'or of any person who is suspected to be in the trade although not a member of any recognised or registered associations." (14)

I have not much to explain. It is well-known that not only persons connected with the associations but even outsiders are entering into this trade at times and they are resorting to benami transactions, while at the same time they are remaining outside the ring. These persons should be brought under the mischief of this clause so that the Government can take proper action against them. As at present, the Government will not be empowered to take any action against them.

Shri Kanungo: If somebody is an accessory or is in abetment and if there is evidence, he can be prosecuted. The whole problem is this. Even today we are not able to find enough evidence. I believe, Sir, that with experience it will be possible to handle that type of persons whom Shri Warrior has in mind.

Shri Warrior: Why should we wait?

Mr. Chairman: I shall put amendment No. 14 to the vote of the House.

Amendment No. 14 was put and negatived.

Mr. Chairman: The question is:

"That Clause 5 stand part of the Bill."

The motion was adopted.

Clause 5 was added to the Bill.

Clause 6 was added to the Bill.

Mr. Chairman: Is Shri Patel moving his amendment to clause 7? He is not present. Then, I shall put clause 7 to the vote of the House. The question is:

"That Clause 7 stand part of the Bill."

The motion was adopted.

Clause 7 was added to the Bill.

Clauses 8 to 12 were added to the Bill.

Clause 13—(Insertion of new sections) 12A and 12B).

Shri Kanungo: Sir, I beg to move:

Page 6,—

for lines 11 and 12, substitute—

"and such period may be extended from time to time but so as not to exceed three years in the aggregate." (9)

The clause as it is worded is rather ambiguous in the sense that the suspension order may be for three years in aggregate but extension is not provided for. It is merely to obviate it that I have moved this amendment.

Mr. Chairman: The question is:

Page 6,—

for lines 11 and 12, substitute—

"and such period may be extended from time to time but so as not to exceed three years in the aggregate." (9)

The motion was adopted.

Mr. Chairman: The question is:

"That Clause 13, as amended, stand part of the Bill."

The motion was adopted.

Clauses 13, as amended, was added to the Bill

Clause 14—Insertion of new Chapter IIIA)

Shri Kanungo: I beg to move:

Page 7,—

for lines 23 and 24, substitute—

"(ii) the words "two years" for the words "three years" in sub-section (2) of section 12B." (10)

It is merely to bring it in line with the other provisions of the Bill.

Shri Naushir Bharucha: But it does not read well. You want it to be reduced to two years. The correct way would be to delete sub-clause (2).

Shri Kanungo: No, Sir.

Mr. Chairman: It virtually means the deletion of the clause.

Shri Kanungo: It will be brought into line with the other provisions: it has got its repercussions on the sections of the Act also.

Mr. Chairman: I will put the amendment to the vote of the House.

Shri Tangamani (Madurai): Sir, We want to have the clarifications about this amendment. Shri Bharucha has pointed out that they may do away with this amendment.

Shri Kanungo: It is in line with the other sections.

Mr. Chairman: The question is:

Page 7,—

for lines 23 and 24, substitute—

'(ii) the words "two years" for the words "three years" in sub-section (2) of section 12B.' (10)

The motion was adopted.

Mr. Chairman: The question is:

"That clause 14, as amended, stand part of the Bill."

The motion was adopted.

Clause 14, as amended, was added to the Bill.

Clauses 15 and 16 were added to the Bill.

Clause 17—(Substitution of new section for section 20).

Shri Kanungo: Sir, I beg to move:

Page 9, line 2,—

for 'reasons' substitute "and adequate reasons." (11)

It is only a drafting change . . . (Interruptions)

Shri Warior: Is it contended that special reasons will not be adequate? What is the difference? . . . (Interruptions).

Shri Kanungo: Actually this amendment makes it more severe because adequate reasons must be to justify the sentence.

Shri Jaganatha Rao (Koraput): 'Special reasons' that term is there.

Shri Kanungo: I am advised by the draftsman that this will make it more effective.

Mr. Chairman: I will put it to the vote of the House. The question is:

Page 9, line 2,—

for "reasons" substitute "and adequate reasons" (11)

The motion was adopted.

Shri Warior: Sir, I have three amendments to clause 17. I beg to move:

(1) Page 8, line 32,—

for "one year" substitute "two years". (15)

(ii) Page 8, line 37,—

for "one year" substitute "three years". (16)

(iii) Page 9, line 3,—

for "one month" substitute "one year". (17)

These are meant to enhance the punishment. I recommend the acceptance of these amendments for the same reason which Shri Morarka took 15 minutes yesterday to explain. If we consider that it is one of the most dangerous things in our economy today, we will realise how necessary to curb it even at the first instance. So, we must provide for deterrent punishment.

The activities are not only anti-social these are anti national. These are

subverting the entire economy to a certain extent. So, the punishment should be enhanced from one year to two years according to my first amendment No. 15 and from one year to three years for the second offence according to my second amendment. In my 17th amendment, I have said that the punishment should be enhanced from one month to one year. So, deterrent punishments should be given as suggested by me. With regard to this clause Shri Mora ka pointed out that it should not be made compulsory and the judges should not be compelled to pass a sentence of imprisonment. I will quote the instance of smugglers. There are many gold smugglers in Kozhikode and other places who say that they are prepared to pay a fine of lakhs of rupees but they are not prepared to undergo a day of imprisonment. What they fear is imprisonment.

Shri Kanungo: Does anybody fear imprisonment in Kerala?

Shri Warrior: There are smugglers not only in Kerala but in other States al.o. What they say is that they would prefer giving any amount as fine rather than undergo a day of imprisonment because a day in jail will mean a greater loss to them. They can manipulate and get a bigger amount in that one day. Therefore, it must be a deterrent punishment if the Government is anxious to do something to curb these manipulation.

Mr. Chairman: What about his amendment No. 18?

Shri Warrior: Sir, I beg to move:

Page 9,—

after line 4, add—

“(2) Every offence under this Act shall be deemed to be a cognizable offence as defined in the Code of Criminal Procedure, 1898.” (18).

Sir, I have nothing much to add. I only want to say that if this is also

brought under the purview of cognizable offence then it will be very easy for the prosecution to launch prosecution and bring the culprits to book.

Shri Kanungo: As far as amendment No. 18 which has been just moved is concerned, I would like to say that my amendment No. 12 seeking to introduce New Clause No. 20A, which I will move at the appropriate time, will take care of making certain offences cognizable and certain other offences non-cognizable.

With regard to the other amendments which he has suggested seeking to provide for higher punishments, I only want to say that we have proposed deterrent punishments but we do not want to provide for savage punishments.

14.22 hrs.

[MR. DEPUTY-SPEAKER *in the Chair*]

Mr. Deputy-Speaker: I shall put the amendments together.

Amendments Nos. 15, 16, 17 and 18 were put and negatived.

Mr. Deputy-Speaker: The question is:

“That clause 17, as amended, stand part of the Bill.”

The motion was adopted.

Clause 17, as amended, was added to the Bill.

Clauses 18 and 19 were added to the Bill.

Clause 20—*Insertion of new sections 22A and 22B)*

Shri Oza: Sir, I beg to move:

Page 10, lines 3 and 4,—

for “a magistrate of the first class” substitute “a district magistrate” (21)

[Shri Oza]

Sir, I shall point out the point behind this amendment. We know that the functioning of forward market is too intricate and complicated that we should not give such wide powers to an ordinary first-class magistrate. As I pointed out earlier, a man who is operating in the market and who is losing may approach an ordinary first class magistrate saying that a particular transaction is in contravention of the Act. For an ordinary magistrate to be satisfied about it he would be entitled to issue warrants to seize all documents. The whole market would then be at a stand still and such persons will benefit out of such a situation. Therefore, I was going to request the hon. Minister to accept the position that such powers should not be given to an ordinary first class magistrate. A district magistrate in charge of the whole district will know what markets are functioning in a particular area. who are all the persons who are to be relied upon and at whose instance documents are to be seized. It will disturb the economy of the district in a way. He said: "first class magistrate specially empowered." That is not the provision in this Bill. Then he should add "specially empowered." In the absence of those words, obviously any first class magistrate can be approached by any aggrieved party in a bargain. I would therefore make a serious request to the hon. Minister—in a way it is a warning to the department also—that he should not take lightly in these matters as otherwise the results would be disastrous.

Shri Jaganatha Rao: Sir, the amendment sought to be moved by my hon. friend makes little difference. He wants that for the words "magistrate of the first class" the words "a district magistrate" may be substituted. A district magistrate may also be a first class magistrate.

Shri Oza: I know that.

Shri Narasimhan (Krishnagiri): But can all first class magistrates be district magistrates?

All district magistrates are first class magistrates under the Criminal Procedure Code. Therefore, it makes little difference whether the powers are vested with first class magistrates or district magistrates unless it is specifically said that the jurisdiction is vested in the district magistrate alone. Therefore, I see no reason why we should not allow the clause to remain as it is, because it does not make any difference if you do not make the change and retain the words "magistrate of the first class."

Shri Kanungo: Sir, I realise the apprehensions of the hon. Member whether any odd person can do something like that. The only insurance is that a magistrate of the first class would have sufficient judicial experience not to let him have this type of chicanery. Apart from that, these powers are for search and discovery of documents. Who will be interested in them except the Forward Markets Commission. So the complainant who will ask for invoking these powers will be the Forward Markets Commission and that too through the police. Therefore, there is ample safeguard for that, and the apprehensions of my hon. friend are not so apprehensive as he thinks.

Mr. Deputy-Speaker: I shall put the amendment to the vote of the House.

Amendment No. 21 was put and negatived.

Mr. Deputy-Speaker: The question is:

"That clause 20 stand part of the Bill."

The motion was adopted.

Clause 20 was added to the Bill.

New Clause 20 A

Shri Kanungo: It is a consequential amendment.

Mr. Deputy-Speaker: But I am advised that this is beyond the scope of the Bill.

Shri Kanungo: It might look so, but it is a consequential amendment in the sense that in the main Act section 20 had sub-section (1) which is no longer there. So it is a consequential amendment. But taking this opportunity I am trying to differentiate a little in the sense that certain offences are being de-classed as cognizable offences. This is inevitable because this has got to be dropped, Sir, I beg to move:

Page 10,—

after line 31, insert—

"20A. Amendment of section 23.—

In section 23 of the principal Act, for the expression "any offence punishable under sub-section (1) of section 20 or section 21 shall be deemed to be a cognizable offence within the meaning of that Code," the following expression shall be substituted, namely:—

"the following offences shall be deemed to be cognizable within the meaning of that Code, namely:—

- (a) an offence falling under sub-clause (ii) of clause (a) of section 20 in so far as it relates to the failure to comply with any requisition made under sub-section (3) of section 8;
- (b) an offence falling under clause (d) of section 20;
- (c) an offence falling under clause (e) of section 20 other than a contravention of the provisions of sub-section (3A) or sub-section (4) of section 15;
- (d) an offence falling under section 21." (12)

Mr. Deputy-Speaker: I could not exactly follow the hon. Minister. Is it the same phraseology that is being used here?

Shri Kanungo: Sub-section (1) of section 23 of the main Act says:

"Notwithstanding anything contained in the Code of Criminal Procedure any offence punishable under sub-section (1) of section 20 or section 21 shall be deemed to be a cognizable offence."

In the Bill that is before us there is no sub-section (1) to section 20.

Therefore it is a consequential amendment which is inevitable. I am also taking this opportunity to reduce the rigour of some of the sections.

Mr. Deputy-Speaker: The objective is quite a noble one—nobody disputes that. Whether it is permissible is the question.

Shri Kanungo: I would urge that permission may be given.

Mr. Deputy-Speaker: I will then put it to the House.

The question is:

Page -0,—

after line 31, insert—

"20A. Amendment of Section 23.—

In Section 23 of the principal Act, for the expression "any offence punishable under sub-section (1) of section 20 or section 21 shall be deemed to be a cognisable offence within the meaning of that Code," the following expression shall be substituted, namely:—

"the following offences shall be deemed to be organizable within the meaning of that Code, namely:—

- (a) an offence falling under sub-clause (ii) of clause (a) of section 20 in so far as it relates to the failure to comply

[Mr. Deputy-Speaker]

with any requisition made under sub-section (3) of section 8;

- (b) an offence falling under clause (d) of section 20;
- (c) an offence falling under clause (a) of section 20 other than a contravention of the provisions of sub-section 3(A) or sub-section (4) of section 15;
- (d) an offence falling under section 21." (12)

The motion was adopted.

Mr. Deputy-Speaker: The question is:

"That new clause 20A stand part of the Bill"

The motion was adopted.

New Clause 20A was added to the Bill.

Clauses 21, 22 and 1, the Enacting Formula and the Long Title were added to the Bill.

Shri Kanungo: Sir, I beg to move:

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

Mr. Deputy-Speaker: The question is:

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

The motion was adopted.

14.33 hrs.

ARREST OF MEMBER

Mr. Deputy-Speaker: I have to inform the House that the Speaker has received the following letter dated the

5th December 1960 from the Additional District Magistrate, 24-Paraganas:—

"I am to inform you that the accused appellant, Shri Kansari Halder, Member, Lok Sabha, has surrendered to his bail and has been re-committed to the Alipore Central Jail on this day, the 5th December 1960."

Mr. Deputy-Speaker: Bills to be introduced: Shri Menon—Absent. Shri Tangamani.

14.34 hrs.

DELHI RENT CONTROL (AMENDMENT) BILL*

Shri Tangamani (Madurai): Sir, I beg to move for leave to introduce a Bill to amend the Delhi Rent Control Act, 1958.

Mr. Deputy-Speaker: The question is:

"That leave be granted to introduce a Bill to amend the Delhi Rent Control Act, 1958."

The motion was adopted.

Shri Tangamani: Sir, I introduced the Bill.

14.35 hrs.

ABOLITION OF EMPLOYMENT OF CASUAL LABOUR BILL—contd.

Mr. Deputy-Speaker: The House will resume further consideration of the following motion moved by Shri Aurobindo Ghosal on the 25th November, 1960:

"That the Bill to provide for abolition of the system of employing casual labour in the employments of permanent character be taken into consideration."

*Published in the Gazette of India Extraordinary Part II-Section 2, dated 9.12.60.