

[Shri Chintamani Panigrahi]

Page 1, line 13, for "whether Parliament is or is not in session" substitute "when Parliament is in session." (1)

Page 1, after line 15, insert—

"Provided that no such Bill shall be enacted as a President's Act as seeks to impose taxes or any other levies on the people or seeks to restrict, in any manner the civil liberties and democratic rights of the citizens." (2)

Page 1, line 17, omit "whenever he considers it practicable to do so". (3)

I have explained these amendments already in my speech.

Mr. Speaker: I will put all these amendments Nos. 1, 2 and 3 to the vote of the House.

Amendment Nos. 1; 2 and 3 were put and negatived.

Mr. Speaker: The question is:

"That clause 3 stand part of the Bill."

The motion was adopted.

Clause 3 was added to the Bill.

Clause 1, the Enacting Formula and the Long Title were added to the Bill.

Shri Datar: I beg to move:

"That the Bill be passed."

Mr. Speaker: The question is:

"That the Bill be passed."

The motion was adopted.

13 hrs.

MEDICINAL AND TOILET PREPARATIONS (EXCISE DUTIES) AMENDMENT BILL

The Deputy Minister of Finance (Shri B. R. Bhagat): Sir, on behalf of Shri Morarji Desai, I beg to move:

"that the Bill to amend the Medicinal and Toilet Preparations (Excise Duties) Act, 1955, be taken into consideration."

Sir, as the hon. Members are aware, Parliament enacted a legislation entitled the Standards of Weights and Measures Act, 1956, for establishing standards of weights and measures based on the metric system. In accordance with the provisions of this enactment, the metric units are being progressively adopted in the country. It is also proposed to extend the provisions of the Standards of Weights and Measures Act, 1956 to the alcohol industry. Consequently, the rates of duty prescribed in the existing Schedule to the Medicinal and Toilet Preparations (Excise Duties) Act, 1955 in terms of rupees and annas per gallon in respect of medicinal and toilet preparations containing alcohol have to be replaced by rates of duty in terms of rupees and naye paise per litre, which will be the new unit of measurement of alcohol.

It is also proposed to take this opportunity to remove certain anomalies in the rates of duty prescribed for toilet preparations containing alcohol. At present, those toilet preparations containing alcohol which are capable of being consumed as ordinary alcoholic beverages are liable to duty at the rate of Rs. 17/8 per gallon of the strength of London proof spirit, and others are subject to duty at the rate of Rs. 5 per gallon of the strength of London proof spirit. There is hardly any justification for such differential tariff. Apart from this, the prevailing rates of duty are comparatively low. As hon. Members are aware, although the

excise duty on medicinal and toilet preparations containing alcohol, opium, Indian hemp and other narcotic drugs and narcotics, is levied by the Government of India, its collection is entrusted to the States within which such duty is leviable and the proceeds thereof are also assigned to the States under the provisions of Article 268 of the Constitution. The State Governments who were accordingly consulted about the existing rates of duty on toilet preparations containing alcohol have expressed the opinion that the duty should be enhanced. It was, therefore, proposed in the Bill to levy duty at the rate of Rs. 7 per litre of the strength of London proof spirit on all toilet preparations containing alcohol.

Now, under the Finance Bill, 1961, a 25 per cent. *ad valorem* duty has been imposed on certain categories of cosmetics and toilet preparations. In order to have uniformity in the rate of duty applicable to various toilet preparations, it has been proposed through an amendment to change the rate from Rs. 7 per litre of the strength of London proof spirit as proposed in the Bill to 25 per cent. *ad valorem*.

The Finance Bill 1961 has also introduced a new levy of 10 per cent. *ad valorem* on patent or proprietary medicines as defined in clause (d) of Section 3 of the Drugs Act, 1940, not containing alcohol or narcotics. By an amendment, a corresponding new tariff item is being introduced in the Schedule attached to the Medicinal and Toilet Preparations (Excise Duties) Act, so that patent or proprietary medicines containing alcohol or opium, Indian hemp etc. and which are not capable of being consumed as ordinarily alcoholic beverages may be taxed at the same rate. Subsequent to the drawing up of the amended tariff, the Drugs (Amendment) Act, 1960 has been brought into force. As a result of this, clause (d) of Section 3 of the Drugs Act, 1940 has become clause (h). The reference made to patent and proprietary medicines as defined in clause (d) of Section 3 of the Drugs Act, 1940 in Explanation

1 of the amended Schedule may, therefore, be read as patent and proprietary medicines as defined in clause (h) of Section 3 of the Drugs Act, 1940.

In so far as the rates of duty on the other items in the Schedule are concerned, no change have been made except for conversion of the rates from rupees and annas per gallon into rupees and naye paise per litre, and expressing the rate in terms of round figures. In the case of Ayurvedic preparations containing self-generated alcohol which are capable of being consumed as alcoholic beverages, the rate of duty prescribed in the existing Schedule is Rs. 3 per gallon. However, in order to provide some relief for Ayurvedic preparations, the rate of duty had been reduced to Rs. 1.75 per bulk gallon by a notification issued under Rule 8 of the Medicinal and Toilet Preparations (Excise Duties) Rules, 1956 with effect from the 10th September, 1980. It is this reduced rate that has been expressed in terms of metric units in the Bill.

Mr. Speaker: Motion moved:

"That the Bill to amend the Medicinal and Toilet Preparations (Excise Duties) Act, 1956 be taken into consideration."

Shri V. P. Nayar (Quilon): Mr. Speaker, Sir, as I read the Bill and as I listened to the speech of the hon. Deputy Minister, I thought that the confusion which I had when I read the Bill has been considerably increased when I heard the hon. Deputy Minister. Sir, it may be that this is a measure of a consequential nature, consequential in the sense that having introduced the metric system of weights and measures we were forced to change the rate of duty chargeable on certain items. But we find that in so far as a new duty is prescribed—in one case it is an enhanced duty and in the case of Ayurvedic preparations there is a reduction in duty—it is not merely a question of levy of duty that we have to consider but we have necessarily to consider how far by an

[Shri V. P. Nayar]

enactment like this we will be able to implement the provisions of this Act.

It is not enough in the statute to describe what is London proof spirit. We must understand that by the levy of this duty the net is cast very wide, because we know that there are hundreds and thousands of preparations which go by the name of toilet preparations, medicinal preparations or compounds and ayurvedic preparations. We must examine here whether by a legislation like this it will be possible to cover the various articles which the Government intends to cover. And, when we examine the provisions I am convinced that it will not at all be possible with the machinery which is today at the disposal of the Government.

We must understand that alcohol as is commonly understood is different from alcohol as it is understood in chemistry. This is a suggestion which I want to place before the hon. Minister, because when you enact, especially for the imposition of a duty, the intention of the legislature must be very clearly defined in the statute. You understand alcohol in one sense in chemistry—as a group of organic compounds. But when you say 'alcohol', popularly it means only what is called ethyl alcohol or ethanol, and anything else will not be known as alcohol. It is a well known principle of law that when a duty is imposed very specific definition should be given for the article on which the duty is imposed. There have been decisions on this subject. It started with the famous decision of the Privy Council in *Casher vs Holmes*. There duty was specified on "metals". The decision on that particular provision is this:

"Duties imposed under the general head of 'metals' upon copper, brass, pewter and tin and on all other metals not enumerated would not include the higher metals of gold or silver, which are commonly known as precious metals."

So here is a case where when the word "metals" was generally used and when a certain duty was levied on gold, which we know by its malleable and ductile properties is as much a metal as any other metal, the Privy Council has held that it is not right to levy a duty on this because the legislature used the word only in the popular sense. Therefore, I want the hon. Minister to make it clear, when he uses the word 'alcohol', whether the word 'alcohol' is used with the common meaning of the word 'alcohol' as we understand or whether the intention of the Government is to use the word 'alcohol' as we understand it in Chemistry.

Then, Sir, there is also another difficulty, and that difficulty is because of the description given to London proof spirit. I shall not go into the details of the chemistry of alcohol because most of us do not know anything about it. But we must understand what is London proof spirit. The duty is to be assessed on the content calculated in terms of London proof spirit per gallon. Here in the second explanation to the Bill, Government have probably borrowed the definition from some encyclopaedia; I do not know, but Explanation III says:

"'London proof spirit' means that mixture of ethyl alcohol and distilled water which at the temperature of 51 degrees Fahrenheit weighs exactly 12/13th parts of an equal measure of distilled water at the same temperature."

I want the House to realise how can the alcoholic content of hundreds of thousands of these preparations, either toilet or medicinal, be determined before we assess duty on the basis of their content per gallon calculated in terms of London proof spirit? I fail to understand how any State can collect the levy the excise duty, by a mere surmise. As we all know, the determination of the alcoholic content in a given solution is far more difficult, as

Amendment Bill

my hon. friend, Dr. Sushila Nayar would be knowing, than the determination of the water content in milk. For the latter, an ordinary lactometer is enough. The specific gravity of any liquid can be easily found by a very simple instrument. You can also use a Polarimeter and hydrometer in other cases. But how can you determine the alcoholic content calculated in terms of London proof spirit in any given preparation? I want the hon. Minister to give me an answer because, as far as I know. . . .

Shri B. R. Bhagat: I am not a technical expert. It is all done by the officers concerned.

Shri V. P. Nayar: This is an answer at all. I know that the hon. Minister is only an expert in finance.

We want money. I grant that. The hon. Minister was pleased to say that the work of levying this duty has been given over to the States for implementation and whatever is collected by the States will also go to the States. I am glad that the States get it. But which of the States, I want the hon. Minister to consider, has got the machinery, or equipment, or knowledge, in so far as the officials are concerned, to find out the percentage of what is the London proof content of a particular alcohol, even if we define what alcohol we mean by this, before you assess the duty? It is absolutely impossible.

Dr. Melkote (Raichur): It is not very difficult, though it is not so easy. You can find it by double distillation.

Shri V. P. Nayar: If the hon. Member wants to know, I have also some basic knowledge of chemistry, although I do not claim any detailed knowledge. But it is common knowledge that the alcoholic content in any solution can be found out only by a refractive index and correlating the refractive index with the known solution. Is there any other process which the hon. Member knows? I

also know that the presence of alcohol can be determined by a variety of chemicals. I know, for example, that sodium hydroxide can be used. I know also that gasoline or kerosene can be used in aqueous solution to determine whether a solution has alcoholic content or not. But to find out the exact alcoholic content in a solution calculated in terms of London proof spirit, you must boil it by means of a mixture of ethyl alcohol and distilled water at a temperature of 51 degrees of Fahrenheit. Before you assess the duty, the State must have a machinery by which the samples from the articles on which the duty is proposed to be levied should be first heated at 51 degrees of Fahrenheit and then the sample must be weighed and the weight must be equal to exactly 12/13th parts of an equal measure of distilled water at the same temperature. I do not want to enumerate the difficulties. First of all, you must have a laboratory balance; then you must have so many other testing apparatus. It is not at all possible for any State Government to have them, and list the tens of thousands of different preparations. It is possible in case the articles were only one or two. But here almost every preparation, not only Ayurvedic preparation but almost every medicine, contains a little quantity of alcohol. I was amazed to read the other day that even in the case of persons who have never touched alcohol, an analysis of the matter of the brain revealed a trace of alcohol. Alcohol is so universal in its presence and because of this quality alcohol has a variety of uses in the preparations of toilet as well as medicinal preparations. It is used as a chemical intermediate. It has its therapeutic use. It is also one of the best known solvents with which they extract the active principles or the medicinal properties from both animal and vegetable matter.

Therefore, alcohol is used very widely. Whether it is allopathy, ayurveda, homeopathy or even unani,

[Shri V. P. Nayar]

alcohol has to be used, whether it is a compound, whether it is an elixir or whether it is anti-septic. In most of these matters alcohol has a necessary use and we have not yet found any substitute.

Therefore, I say that when you impose a duty, calculated again in terms of the London proof spirit, it is absolutely impossible to cover all the items which contain alcohol to determine their contents of alcohol in terms of London proof spirit by heating it at a temperature of 51 degrees Fahrenheit and then assessing the duty. Therefore, I say because of these restrictions, because of these obvious difficulties which we cannot surmount,—at least, by any stretch of imagination, I cannot think how any State Government can find out the exact alcoholic content to determine the levy—the provisions of this Bill are incapable of implementation.

Mr. Speaker, you will be interested to know that in the Schedule to the Bill, they have stated:

“Medicinal preparations, containing alcohol, which are prepared by distillation or to which alcohol has been added, and which are capable of being consumed as ordinary alcoholic beverages”.

For that the levy is Rs. 17-8-0 per gallon on the strength of London proof spirit. You cannot charge anything else. Therefore, I say that the basis of assessment is something which cannot be found out by the officials, because we do not have the machinery. It is not possible for every sample to be sent to a chemical laboratory in a State before you assess the duty, because it is not a matter which can be ordinarily found out.

What does it mean? It means that the officials will have necessarily to resort to certain methods which are not fair against the producers. It

will give power in the hands of the officials to charge duty at random. Because, if the manufacturers send a sample to assess the duty, without subjecting it to a chemical analysis, without making a study of the refractive index, without even determining the percentage of alcohol by an aqueous solution, they will say “All right, we will assess 50 per cent” and there is no remedy for the manufacturers. I am not worried about the big manufacturers of medicines and other preparations, who may have very well-equipped laboratories. But we know, Sir, that most of the manufacturers of pharmaceuticals and chemicals in our country have not grown up to that stage where they can afford the luxury of modern laboratories. May be, the Imperial Chemical Industries or some other big industries may have it. But the ordinary firms which manufacture certain drugs cannot maintain a laboratory to have an analysis, and alcohol being such a versatile product which is versatile in its use, there is hardly any preparation, either medicinal or toilet, which does not contain alcohol. An analysis of the content of alcohol may be possible, but on that duty cannot be charged. The duty becomes chargeable only when the London proof spirit content is determined. Therefore, I say that it is absolutely impossible for me to agree with this provision because when the net is cast very wide, as the hon. Minister wants it to be, it becomes impossible for the official to collect the taxes.

I was surprised because this is not the only item, not the medicinal and toilet preparations alone. There is also an omnibus provision in item 2(iii) of the Schedule, and that is “All others”. If we mention “All others” in a taxation measure and say that Rs. 5 per gallon on the strength of the London proof spirit will be charged as excise duty under the new Bill, I am unable to find out what it means. What will they include? You have enumerated the medicinal and

toilet preparations; then you have enumerated the ayurvedic preparations containing self-generated alcohol, which are not capable of being consumed as ordinary alcoholic beverages; you have also enumerated the ayurvedic preparations containing self-generated alcohol, which are capable of being consumed as ordinary alcoholic beverages. After enumerating all these items, you say at the end "All others". Therefore, when you use the term "All others" after enumerating the various items on which the duty will be imposed by this legislation, the reasonable meaning, the reasonable interpretation of the use of the word "alcohol" will be the use of the word in the sense in which it is known to students of chemistry and not in its popular sense alone.

Then, let us take the question of ayurvedic preparations. Here I find that the duty is reduced on ayurvedic preparations. We know that most of these ayurvedic preparations are made from matter which is of vegetable origin. We also know that in such matters the content of carbo-hydrate is really high. It is the natural fermentation of this which results in alcohol and it cannot be prevented unless you have all the skills and tools of modern chemistry. We know that Ayurvedic medicine manufacturers do not keep such chemical laboratories. If you purchase Dasamoolarishta from one manufacturer and if you purchase Dasamoolarishta from another manufacturer, I am positive that the alcoholic content, will be different between the one and the other, just because the process by which it is made is not controlled by any modern scientific methods. It is just the ordinary way of doing it in our house.

There are ever so many preparations which have self-generated alcohols in Ayurveda also. How is it possible for you to determine the alcoholic content? I understand there are hundreds of thousands of manufacturers. Most of these may be making products which are sold in the

same name and style as Drakshasava, or Draksharishta, Dasamoolarishta, etc., etc. All this will come within the category of ayurvedic preparations having self-generated alcohol. How do you determine the self-generated alcoholic content? I can understand there being a flat rate, even if the presence of alcohol is one part in hundred parts. But what is the duty here? Explanation II says:

"Where in respect of any dutiable goods the unit of assessment for the purpose of any duty under this Act is a litre or the strength of London proof spirit, the duty shall be increased or reduced etc., etc."

On Ayurvedic preparations containing self-generated alcohol, which are capable of being consumer as ordinary alcoholic beverages a duty of thirty eight naye paise per litre is proposed.

We know that after the introduction of prohibition almost everything for oral use, is being taken with impunity. Tinctures, only a few minims of which will be prescribed, we know people taking by ounces and yet going strong. I know of cases of death having resulted from taking medicines for its alcoholic content alone, not for the cure of any disease, but for the cure of the appetite or thirst for a drink to which they were used. I am not going into the controversy as to whether there should be prohibition or not; but the fact remains that even French polish in which there is alcohol is being taken, as also preparations which are normally sold for medicinal purposes, such as certain tinctures or syrups, say Waterbury's Compound. A person in Bombay, for instance drank one whole bottle of Waterbury's Compound, because, Waterbury's Compound has 15 or 16 per cent of alcohol. In order to quench his thirst for liquor he is not satisfied with taking one ounce, over which no doctor proscribes, but he goes on taking one whole bottle to get, as it were, the pep from the 18 per cent of alcohol. We know that Waterbury's Compound has certain poisons

[S V. P. Nayar]

in small doses, guicol and creosote. Preparations in which the presence of alcohol is notified is being consumed in much larger doses than any reasonable physician would prescribe, just because of its alcoholic content. When even that is difficult to be checked, I cannot for a moment consider how it will be possible to check misuse of these preparations.

Let us now come back to the case of self-generated alcohol.

Mr. Speaker. The hon. Member's time is up.

Shri V. P. Nayar: I would only submit that this legislation as it appears in print is so good. We all of us want more money to be collected from luxury articles. But I do not agree that all the toilet preparations are luxury articles. Alcohol is also used for soap manufacture. Soap today cannot be called a luxury article. Some of the hair creams or hair oils may be considered to be luxury articles. Today our position is such that most of the ordinary people are forced to use some of the toilet preparations in their daily use. If you say that tooth paste is a luxury, I would not agree. Even so, I am prepared to agree that the net should be cast and the maximum revenue should be collected. But how are you going to collect it? This is my doubt. We agree that some articles on which a duty is proposed to be imposed can pay the duty, because there is so much of profit in their manufacture. It is also possible that those people who want it for their own consumption may be able to pay a little extra which will go to Government. Even so, the fact remains that it is impossible for any State to cover the excise duty from the various preparations, just because it is a very highly technical matter and no State is capable of finding out adequate machinery for the analysis or synthesis of these various articles in order to arrive at the duty which is fixed primarily on

the quantum of alcohol, calculated in terms of London proof spirit.

I would, therefore, request the hon. Minister to modify this Bill and to be more precise in the use of the word "alcohol" the existence of which forms the basis of the increase or decrease in duty, because it will avoid all complications in future.

It is the right of everyone to go to a court and claim a remedy, so long as he is able to convince the court that the assessment of duty has not been fair, or the duty was charged on what the legislature did not intend. I do not want the country to know that this legislature has passed this measure without understanding what is commonly understood by alcohol as distinguished from what is understood by the word alcohol in Chemistry. I would urge the hon. Minister to consider this proportion.

I do not find fault with the hon. Deputy Minister. He has a prepared brief and he cannot be expected to know chemistry. Even the little chemistry. Even the little chemistry which he might have studied for graduation may have been long forgotten and he may not have the time to refresh his memory. Even then it is for us to consider whether in this context we can leave the provision so vague, so that it will form a tool in the hands of tax officials for the perpetual harassment of the small manufacturer. I do not want the House to pass this measure because there is no possibility of finding out the basis of taxation. Tax officials will have blanket powers with which they can go and extract money from people who live only by the manufacture of these articles.

I am glad that generally on Ayurvedic preparations the duty has been reduced. Even then it is impossible to collect the duty on Ayurvedic preparations manufactured by hundreds of people throughout the country. I would request the hon. Minister to

Preparations (Excise
Duties) Amendment
Bill

consider these aspects in detail. If he does not mind, he can conduct some of his advisers in chemistry also and if there is a process which is an easy one whereby the London proof spirit can be found out, I am all with him to collect the duty. Until that is there, we should not give an opportunity and potential for harassment in the hands of tax officials who collect the duty.

Therefore, I oppose this Bill as it is inadequate, in complete and does not specify the exact intentions of this House.

डा० सुशीला नायर (झांसी) : अध्यक्ष
महोदय,

श्री व० प० नायर : माननीय सदस्य
अग्नेजी में बोलें ।

We want to understand the hon. Member.

Dr. Sushila Nayar: Sir, I find myself in wholehearted agreement with most of what Shri V. P. Nayar has said, with one or two exceptions. Sir, this Bill, I think, has been drafted in a hurry and due thought has not been given to the various implications of it. It is perfectly true that no calculate the duty, as it has been stated in the Bill, in terms of London proof spirit, will be almost an impossible job, particularly in view of the fact that the strength of alcohol is not uniform in most of the preparations in our country.

So far as Ayurvedic preparations are concerned, their standardisation has been a big bone of contention. The percentage of alcohol varies so greatly that unless arrangements are made to analyse almost every preparation from every manufacturing house, and not only that a sample is taken out of every batch, it would not be possible to say what percentage of spirit there is.

It seems to be a strange irony that under Shri Morarji Desai as Finance Minister these ayurvedic drugs are being practically exempted from

excise duty. The duty is so low on Ayurvedic drugs. It is a well known fact, and Shri Morarji Desai must be aware of it, that in the State of Bombay, when they introduced prohibition rather strictly, the consumption of *Dhrakshasava* and *Arishtasave* went up so considerably that the authorities thought it necessary to analyse some of these *asavas*. The percentage of alcohol found in them was anything from 18 to 20 per cent. whereas in the ordinary wines etc., the western drinks, I am told the percentage is only 5 to 6 and sometimes perhaps 8 per cent. Therefore, these *asavas* and other ayurvedic alcoholic preparations are the ones that are capable of being used for the breach of prohibition laws. They are the ones that are liable to be used non-medical purposes. But the duty thereon has been so considerably reduced as to make it ridiculous, compared with duty charged on ordinary alcoholic the medicines.

To think in terms of charging such a heavy duty on alcoholic medicines is, I think, a most unfortunate measure. After all, whatever Shri V. P. Nayar might have said, it is very rare that people will go and drink up tinctures, medicinal tinctures, for the simple reason that most of these tinctures are not tasty; many of them are bitter. There are very few tinctures like tincture cardamom which may be capable of being used in larger quantities.

Shri V. P. Nayar: May I interrupt my hon. friend for a minute? In one State, which I do not wish to name, the consumption of tincture zingiberis, which is probably a more bitter tincture than any other tincture, rose by 140 times in the course the year in which they introduced prohibition.

Dr. Sushila Nayar: I do not think my friend has added anything to what I was saying myself. I mentioned cardemom; tincture zingiberis is another tincture which can be used for putting into some kind of cold drink and consumed like that.

Shri V. P. Nayar: Sixteen ounces.

Dr. Sushla Nayar: What I am trying to say is that, by and large, the medicinal tinctures wherein the proportion of alcohol is relatively speaking more constant, are less liable to abuse. But these are the medicines that are being heavily taxed, and the preparations which are commonly abused, which have a much higher percentage of alcohol, going by the name of ayurvedic preparations, are being charged a very very low duty in this Bill. I think this is a completely wrong way of thinking.

As a matter of fact, State should provide free medicines to the people. I am one of those who stand for socialised medicine. There are many people in our country today who cannot stand the expenses of purchasing medicines. And on top of that we want to add to the cost of those medicines by levying duties of the type that are proposed in this Bill.

I am sorry that it is considered fit to lump together cosmetics and medicines. What is common between them? I can understand the increase of duty on cosmetics. I do agree that there are certain ordinary items that are used commonly. But even if, instead of some of the creams, people use some simple things like what our grandmothers used to use, it would not do any harm to anybody. Therefore, while I can support the levy of duty on cosmetics, I find myself unable to support the levy of this excessive duty on medicinal preparations in which alcohol is used. After all, a child may be very seriously ill with pneumonia or something, and a little bit of stimulant tincture or alcoholic medicine may have to be given to this child. Why should the cost of that little bit of alcoholic medicine be increased making it harder on the parents to buy that medicine? So long as we are not in a position to introduce socialised medicine in this country, the least that we can do is to lower the cost of medicines to the maximum extent possible so as to

make them available to the common man, rather than go on introducing measures which increase the cost of the medicines.

I entirely with agree with Shri V. P. Nayar that the assessment of the alcoholic content is going to be so very difficult that it will be just on an *ad hoc* basis that they will assess these duties and it is liable to cause a considerable amount of harassment to the small shop-keepers, chemists, druggists and so on.

I therefore suggest to the hon. the Deputy Finance Minister to please hold over this Bill till the next session. I have not tabled any motion. I am sorry, I did not notice that this Bill was coming up today; otherwise I might have introduced some amendments or perhaps introduced a motion for the reference of the Bill to a Select Committee. Not having done that earlier, I am not in a position to do it now. But I do commend it to the hon. the Deputy Finance Minister not to rush through this Bill but to give consideration to the points that have been brought to his attention.

Dr. Melkote: I associate myself entirely with the expression of views, I should say, objections to the introduction or the consideration of this Bill itself.

First of all, I feel that it does no good to anybody. I have to say this so strongly for the simple reason that Shri V. P. Navar was perfectly correct in what he said, namely that the innumerable number of chemists and shop-keepers would be harassed by the enactment of this law. It is impossible, as things stand, and with the present arrangements, even in the capitals of most of the States to assess the percentage of alcohol in many of these medicinal preparations. And if one has got to test the innumerable preparations that are in the market, the very object for which this Bill has been brought would be defeated, as Government would find it very difficult to test all these preparations.

Preparations (Excise
Duties) Amendment

Bill

This Bill has been introduced possibly with two objectives. One is to raise revenue, and the other is in order that many of these medicinal preparations, which contain a large percentage of alcohol, may not be palmed off on the public.

Whilst we welcome any measure of taxation which would raise money for the exchequer in a proper manner, we have also to raise our voice against this imposition on actual medical preparations which are necessary for the common public.

It is not merely a question of taxation. The tax structure may be very low. But if there is an imposition of fines, many of these people who make medicinal preparations that do not conform to the specifications will not do so, or many of these manufacturers will not resort to such underhand dealings as they have been doing till today. This is one aspect of the question which has been spoken of in the House, and I entirely agree with it.

The second aspect is this, and it relates to the term 'consumption'. That consumption, again, does not exactly specify whether it is internal or external. For instance, as far as tincture of iodine which is almost used externally, is concerned, is it 'consumption'? And would you, again, find out the percentage? Tincture of iodine is prepared with a particular percentage. But oftentimes it is not. How are you going to assess the tincture of iodine prepared by various medical practitioners in their own dispensaries? How are you going to find it out, and how are you going to penalise such a doctor?

These are some of the objectionable features which are there. Therefore, I felt that a reference of this Bill to a Select Committee would be most welcome. I have not, as Dr. Sushila Nayar has also said, tabled any amendment to this effect, and I am saying it only now. I feel however, that either the Bill should be with-

drawn or it should be referred to a Select Committee.

Shri Warior (Trichur): The main Act has been in operation for some time now and we have gained some experiences as a result of the working of the main Act. We had also the opportunity to represent certain matters concerning the imposition of the excise duty on Ayurvedic preparations. There are certain reputed Ayurvedic firms in the land, and they have been dealing in these preparations. It is not only that, but many a patient had been taking advantage of these Ayurvedic institutions. Now, these institutions are put to such a harassment that not only have they lost their entire business, but the patients also are not able to take advantage of them.

We had referred this matter to the Health Ministry once, and the officials of the Health Ministry told us that they were in no way connected with the excise duty, and that it was an affair of the Finance Ministry.

13:42 hrs.

[MR. DEPUTY-SPEAKER in the Chair]

The Finance Ministry has imposed this duty on the alcoholic preparations, as they call them, but actually they are not alcoholic preparations. In the Ayurvedic medicines, especially in the arishtas which are generally manufactured even in the homes and which are very common in the Kerala State, for instance, alcohol is coming out of them indigenously and not by means of any external application; and they say that because the content of alcohol is such and such a percentage, therefore, they must come within the mischief of this enactment, and they cannot exempt them. Actually medicines and health are the responsibility of the Health Ministry, but that Ministry is impotent in this matter, because the Finance Ministry would not allow them any exemption at all. If at all they are willing to give exemption, it is only in the case of ordinary preparations.

[Shri Warrior]

In our homes, we prepare all these arishtas, and we do not go to the shops to purchase them, because it is as if everything lies on the palm of one's hand. Our people know how to prepare them in their own homes. They know how to prepare drakshasava or dashamoolarishta, for instance. Dashamoolarishta is taken by people for simple cold, without any prescription; they can just go to an Ayurvedic shop, and take an ounce or two of dashamoolarishta to get relief from cold, and they never get intoxicated by that. I have not seen anybody becoming intoxicated on account of that. If a person is purposely going in for an intoxicant, then he can have recourse to so many other things also. While in jail, I have seen some addicted fellows taking *nux vomica*. You know, Sir, that *nux vomica* is not a sweet thing; I have not taken it, but I know that *nux vomica* is considered even to be a poison but the powder of *nux vomica* which is available in allopathic shops and in allopathic drugs is taken by people. I asked those fellows how they could take it because it was such a bitter thing. They said that something was better than nothing. So, the addicted fellows were taking that.

I know also, for instance, that in some prohibited areas methylated spirit is taken with lime juice added to it; and addicted people take it without knowing whether it will actually kill them or kill their health. In this way, the addicted fellows have recourse to so many things. All these things cannot be taken into consideration when we are considering genuine *bona fide* things. Just like black-market, this is a case of 'black drinking'. We cannot take any action against such things through the excise duty, and we cannot prohibit all these majorities by the imposition of the excise duty. There are certain necessary enactments to prevent such things, and they must take their own course.

But, in this particular case, thousands of ordinary people who cannot

afford to have the highly-priced medicines coming from outside have only to depend upon the indigenous Ayurvedic medicines as far as I know. The hon. Minister himself admits that he does not know the techniques of all these things. Naturally, he cannot be expected to know about them; he knows only the technique of economy. So, at least, he should seek the help of the Health Ministry in this matter. Suppose the Health Ministry says that such and such a medicine should be exempted, then the only question that the Finance Ministry look to is the income; somehow, by hook or crook, by fair means or foul means, whether there is harassment or there is no harassment, the money must come; if that is the policy that Government adopt then it is impossible to argue with them. We do not believe that that is the policy....

Mr. Deputy-Speaker: No means are foul when they are to be approved by Shri Warrior himself here in this Parliament.

Shri Warrior: No. Shri V. P. Nayar was saying, that the original enactment went off without being taken much note of by Parliament. I do not know whether he was present or not. Anyhow, at least now, we know the implications of the enactment. In the beginning, we do not know the ramifications of it or the working of it. It is only out of the experience that we gain as a result of the implementation of the Act that we know whether it is good or bad for the people. I am speaking today only from that angle.

As far as the alcoholic preparations are concerned, as far as the import of alcoholic preparations is concerned, and as far as the cosmetics are concerned, I have no objection to the imposition of the excise duty. My submission is only in a limited sphere, namely, in regard to the Ayurvedic preparations, and even there, only in regard to the arishtas and asavas prepared by the reputed,

Preparations (Excise
Duties) Amendment
Bill

they are put to harassment, then what shall we do? At least, that much portion of the authority must be delegated to the Health Ministry. If the Health Ministry certifies that such and such preparations should be removed from the list or be exempted from the duty, then the Finance Ministry must be kind enough to agree to that. Now, not only the business is ruined, but the people also are suffering.

Besides, sometimes, by seeing the label Drakshasava, people may think that it is only Drakshasava, but, they fill up the bottle actually with alcohol. Is the imposition of the excise duty a necessary remedy to curb that evil? I do not quite know. The excise duty is only on genuine alcoholic preparations. But these are not at all alcoholic preparations. Of course, there is a certain percentage of alcohol, in them, but that is not extraneous alcohol. It is really a case of fermentation, just as in the case of curd or butter-milk. Just as curd or butter-milk ferments, this also ferments. But this is not taken just for intoxicating purposes. I do not know by what stretch of imagination the Finance Ministry has extended this levy even to these innocent preparations by which thousands and millions of people take succour and get relief.

Hence, I plead with the Ministry, in all sincerity, that these preparations, prepared by reputed and reliable firms, certified by the State Governments, must be left out, and the other things must be brought within the mischief of this enactment.

श्री राधे लाल श्याम (उज्जैन) :
उपाध्यक्ष महोदय, जहाँ तक इस बिल का सम्बन्ध है, इस में जो ट्रायलेट प्रिपरेशंस हैं जिन पर अलग अलग ड्यूटियाँ थीं, उन को अब समान रूप से लगाया गया है और जो आयुर्वेदिक औषधियाँ हैं, जिन में कहा जाता है कि अल्कोहल की कुछ मात्रा होती है, उन पर ड्यूटी को कम किया गया है। कुछ माननीय सदस्यों ने बतलाया कि इस से

कुछ छोटे निर्माताओं का हैरसमेंट होता है, उन को बड़ी दिक्कत होती है, लेकिन इस बिल के पास न करने से वे खत्म नहीं हो जातीं, क्योंकि ड्यूटी तो अब भी है। कम है, यह अवश्य है। ड्यूटी की मात्रा का फर्क है, उस से हैरसमेंट समाप्त नहीं होता। अगर इस बिल को ड्राप भी कर दिया जाय तो हैरसमेंट तो वही रहता है क्योंकि ड्यूटी तो लगी हुई ही है। मलिये जो माननीय सदस्यों ने यह कहा कि इस बिल का ड्राप कर दिया जाय, यह बात मेरी समझ में नहीं आती।

जहाँ तक उन आयुर्वेदिक औषधियों का सम्बन्ध है जिन में अपने आप अल्कोहल पैदा हो जाता है, उन पर ३ रु० प्रति गैलन से घटा कर १।।। रु० प्रति गैलन ड्यूटी की जा रही है।

श्री भीमारायण दास (दरभंगा) :
नॉटिफिकेशन के जरिये से पहले से ही आयुर्वेदिक प्रिपरेशंस पर ड्यूटी घटा दी गई है।

श्री राधे लाल श्याम : ठीक है, लेकिन कानून तो बनाना ही पड़ेगा, केवल नॉटिफिकेशन से काम नहीं चलता। कानून जरूरी है।

लेकिन मैं यह निवेदन जरूर करूँगा माननीय मंत्री जी से कि जहाँ तक आयुर्वेदिक औषधियों का सम्बन्ध है, उन पर वह गंभीरता से विचार करे कि जिस तरह कानून के द्वारा प्रतिबन्ध लगाया गया है कि वहाँ पर केमिस्ट रखे जाने चाहियें, यह कहा एक व्यवहार्य है और कहा तक जरूरी है। वे इस पर इमानिये सोचें कि काफी लोग, खास कर छोटे छोटे निर्माता जो घामब और अरिष्ट बनाते हैं "ब्राह्मसव" और "असोकारिष्ट" आदि विज्ञापित करते हैं, लेकिन घामब और अरिष्ट कई तरह के होते हैं। वे घामब और अरिष्ट आयुर्वेद की बहुत ही उपयोगी और कारगर औषधियाँ हैं। जैसे रस उपयोगी है वैसे ही

[श्री रघुबीर लाल श्याम]

घासक और धरिष्ट की भिन्न भिन्न रोगों के लिये बड़े उपयोगी मिश्रण है। माननीय सदस्य डा० सुशीला नायर ने कहा कि प्राय-वैदिक औषधियों में घासक और धरिष्टों का काफी नया मान के पेशों के रूप में उपयोग होता है। मैं कहना हूँ कि कोई चाहे किमी घासक की एक या दो बाँतल तक पी ले उन को नया नहीं होगा। मैं तो कहना हूँ कि कोई पी कर देखे। मैं ने एक बार भदन में कहा था स्वास्थ्य मंत्री से कि आप चाहे किसी घासक या धरिष्ट की दो बार बाँतल तक पी कर देख लें और अगर आप को थोड़ा भी नया हो जाय तो उन चीजों पर टैक्स लगा दें।

Shri V. P. Nayar: It only works as a laxative.

उपायक महोदय : स्वास्थ्य मंत्री तो यह बतल रहा नहीं है। लेकिन जब माननीय सदस्य ने लक्ष्मी को देख लिया है तो स्वास्थ्य मंत्री को पति की वधा जरूरत है।

श्री राधेवल्लभ श्याम : मैं ने पिछा तो नहीं है। मैं समझता हूँ कि कोई दो बाँतल पी नहीं सकता, लेकिन मैं ने बँदों में तलाश किया है। उन का कहना है कि उन में एन-कोहल की ऐसी मात्रा नहीं होती है कि जिस से नया हो जाय। उन में औषधियाँ भिन्नाई जाती हैं, गहब होता है और कुछ धाँस होता है। इन सब को सीज़ बन्द कर के पाल्सीस दिन तक रखा जाता है। तो इन में डरसेवेसन तो हो ही जाता है। लेकिन उन में जो गुण है वह औषधियों का है, उन में कोई नया नहीं है। बर्लिन से कन घासक बनवा है जोकि कासल की बहुत अच्छी दवा है। गले के लक्ष्मी और गरियाय के पानी से गरिकेसासब पकता है। ये घासक चने उखोली है और इन वेग में नरीनों के लक्ष्मी औषधियाँ बहुत सुख है और अच्छी है। और इन में बड़ा नाम होता है। वे घासक औषधियाँ धिउन पुराने होते

जाते हैं उतने ही अधिक लाभदायक होते जाते हैं। तो मेरा मुझाव है कि इस इन पर बिचार होना चाहिये। यह सही है कि इस की घाड़ में कुछ नशील पदार्थ भी दवाओं के नाम से बेचे जाते हैं, उन पर अवश्य प्रतिबन्ध लगाना चाहिये लेकिन उन का यह रास्ता तो नहीं है कि न औषधियों पर ड्यूटी लगा दी जाय। कई लोग तो वैद्यक नहीं करने, जिन को लाज में कोई सम्बन्ध नहीं है, वे लोग कुछ चीजें जोकि नया करती हैं उन लिये हैं और प्राय-वैदिक दवाओं के नाम से बेचते हैं। उन चीजों पर प्रतिबन्ध होना चाहिये। लेकिन इस प्रकार इन औषधियों पर ड्यूटी लगा देने में वह उद्देश्य पूरा नहीं हो सकता। इसलिये यह नहीं करना चाहिये कि सब को एक ही घाट में उतारा जाय और प्राय-वैदिक औषधियों पर भी ड्यूटी लगा दी जाय, कुछ बाँतल नहीं होना। इस पर गवर्नमेंट में बिचार करने की जरूरत है।

मेरा मुझाव है कि मिनिस्टर साहब इस प्रश्न पर बिचार करने के लिए एक कमेटी बनाएँ और इस प्रश्न पर इस तरह से बिचार किया जाए कि जो छोटे बँध हैं और जो किसी एजेंट के द्वारा अपनी औषधियाँ नहीं बेचते बल्कि केवल घासके रोगियों का इलाज करने के लिए ही औषधियाँ तैयार करते हैं उनकी औषधियों पर ड्यूटी न लगायी जाए। अब तो हर राज्य में प्राय-वैदिक बोर्ड काम कर रहे हैं। जिन बँदों के लिए वे बोर्ड यह तसदीक कर दें कि वे अपने रोगियों के लिए ही औषधि बनाते हैं उन पर यह ड्यूटी न लगाई जाए जैसे कि घासके हेल्थमूय घास की काटेज एडस्ट्रीज को कर से मुक्त रखा है। हाँ जो बड़े बड़े बँध बनाते हैं जैसे बँध हैं वा डैलनाथ का कारखाना है, इन पर आप टैक्स नया लफ्ते हैं क्योंकि इन पर आप ड्यूटी भी रख लफ्ते हैं और वे मोम घासके कानून का मामला भी ठीक तरह से कर लफ्ते हैं, डैलिस्ट भी रख लफ्ते हैं। लेकिन छोटे बँध न तो डैलिस्ट रख

सकते हैं और न आपके कानून की दूसरी शर्तें पूरी कर सकते हैं। अगर उन पर यह ड्यूटी लगायी गयी तो इसका परिणाम यह होगा कि उनका काम बन्द हो जाएगा। तो इस पर इस दृष्टि में विचार किया जाए कि छोटे वैद्य अपने रोगियों के लिए दवा तैयार करते हैं उनका हेराममेंट न हो। अगर आप ऐसा नहीं करेंगे तो उसका परिणाम यह होगा कि ऐसे छोटे वैद्यों को हेराम किया जाता रहेगा पर आपको कोई लाभ नहीं होगा अफसरों को तनखाह आदि देने में आपका काफी पैसा खर्च होगा।

इन शब्दों के साथ मैं उस विचार का हूँ कि यह बिल तो पास कर दिया जाए, लेकिन नए सिरे से इस प्रश्न पर अध्ययन करके आयर्वेदिक औषधियों के लिए एक दूसरा बिल लाया जाय। उनका ही मझे निवेदन करना है।

श्री श्रीनारायण दास : उपस्थित महोदय, जब मन् १९५५ में मेडिकल एंड टॉयलेट प्रिपेरेशन्स ऐक्ट पास किया गया उसमें पहले आयर्वेदिक औषधियों पर कोई कर नहीं लगाया गया था। वह पहला समय था कि जब उस ऐक्ट द्वारा उन आयर्वेदिक औषधियों पर कर लगाया गया जिनमें स्वयमेव एनकोहल पैदा हो जाता है। इस कारण उन वैद्यों के काम पर बड़ा धक्का लगा जो कि इस प्रकार की औषधियां जिनमें अपने आप एनकोहल पैदा हो जाता है अपने रोगियों के लिए तैयार करते थे। इन वैद्यों ने चारों तरफ से गवर्नमेंट को रिप्रीजेंटेशन भेजे जिनके फलस्वरूप एक नोटिफिकेशन के द्वारा उस कर को माफ कर दिया गया। तो यह तो खुशी की बात हुई। लेकिन जहां तक छोटे वैद्यों की दिक्कतों का सवाल है वे किसी प्रकार भी हल नहीं हुई। अभी भी देश में बहुत से वैद्य ऐसी दवायें तैयार करते हैं जिनमें अपने आप एनकोहल पैदा हो जाता है। लेकिन जैसा कि कई माननीय सदस्यों ने कहा है उनमें कोई नधा नहीं होता। वे तो दवाएं हैं और एक प्रकार के पीप्टिक

पदार्थ हैं जिनको आयर्वेद के जानने वाले छोटे छोटे वैद्य बनाते हैं।

इस बिल का दायरा बहुत सीमित है। इसके जरिये जो पहले गैलन के हिस्साब से कर लगाने की प्रणाली थी उसको बदल कर मीट्रिक प्रणाली में किया जा रहा है। इसलिए यह ऐसा मौका नहीं है कि मैं आयर्वेदिक दवाओं पर कर हटाने पर जोर दे सकूँ लेकिन जब इस प्रकार का विधेयक सदन के सामने है तो जनता के प्रतिनिधि के रूप में मैं इसको अपना कर्तव्य समझता हूँ कि इस और सरकार का ध्यान प्राप्त करूँ कि जो छोटे छोटे वैद्य इस प्रकार की दवाएं बनाते हैं जिनमें अपने आप एनकोहल पैदा हो जाता है उन को इस कर के कारण बड़ी कठिनाइयों का सामना करना पड़ता है। मैं यह भी कहना चाहता हूँ कि देश में बड़ी तादाद में लोग, शरीर ५०-६० प्रतिशत लोग, इन दवाओं का प्रयोग करते हैं और उस प्रकार जो वैद्य ये दवाएं तैयार करते हैं उनमें उनका काम चलता है। इसलिए मेरा मुझाव है कि जो आयर्वेद के वैद्य इस प्रकार की दवाएं बनाते हैं जिनमें अपने आप एनकोहल पैदा हो जाता है, उन पर कोई कर न लगाया जाए। लेकिन जैसा कि माननीय सदस्य श्री व्यास जी ने बताया, इस देश में जो बड़े कारखाने हैं जो इस प्रकार की दवाओं को बनाते हैं उन पर सरकार कुछ इस प्रकार का कर लगा सकती है। यह इतना नुकसानदेह नहीं होगा। लेकिन अगर यह कर उन वैद्यों की दवा पर भी लागू रहेगा जो कि छोटे पैमाने पर अपने रोगियों के लिए देश भर में इस प्रकार की दवाएं बनाते हैं तो उनके व्यवसाय को इससे बड़ा धक्का लगेगा और उनको कठिनाइयों का सामना करना पड़ेगा। ये छोटे वैद्य अपना हिस्साब किताब भी ठीक से नहीं रख पाते। वे एक दिन दवा तैयार करते हैं और दूसरे दिन उसे बेच देते हैं। अगर ऐसे लोगों को हिस्साब किताब रखने के लिए मजबूर किया जाएगा तो उनको बड़ी कठिनाई होगी। इसलिए यह जरूरी है कि सरकार इस बात पर विचार करे

[श्री श्रीनारायण दाम]

कि जहाँ तक उन छोटे बँधों का सम्बन्ध है जो कि इस प्रकार की दवाएँ बनाते हैं जिनमें अपने आप एल्कोहल पैदा हो जाता है, उन पर कर न लगाया जाए। इन छोटे बँधों पर कंट्रोल रखना भी बहुत कठिन होगा।

इन गद्दों के साथ मैं इस बिल का समर्थन करता हूँ पर उम्मीद करता हूँ कि सरकार इस पर विचार करेगी कि उन आयुर्वेदिक दवाओं पर जिनमें अपने आप एल्कोहल पैदा हो जाता है कोई कर न लगाया जाए और अगर सरकार कर लगाना चाहती है तो केवल बड़े बड़े कारखानों की इस प्रकार की दवाओं पर कर लगाये, लेकिन जो छोटे पैमाने पर इस प्रकार की दवाएँ तैयार करते हैं उन पर कोई कर न लगाया जाए।

Mr. Deputy-Speaker: The hon. Minister.

Shri V. P. Nayar: May I request the hon. Minister through you to kindly withdraw the Bill in view of the fact that not a single Member spoke in support of the Bill? There are medical experts in the House who have spoken. Members from his own Party and from the Opposition have been unanimously against the Bill. I do not think any other Bill has had this fate. This is for the first time that this has happened. So in defence to the sentiments of the House, I would request the hon. Minister to withdraw the Bill.

Shri B. R. Bhagat: Factually, that is not correct. Shri Radhelal Vyas spoke in Hindi. So probably the hon. Member did not follow him.

Shri V. P. Nayar: He supported the Bill but opposed it.

Shri Nagi Reddy (Anantapur): He spoke in support of the Bill in the house but the hon. Minister will bring forward another Bill after withdrawing this Bill.

14 hrs.

Shri B. R. Bhagat: I think the hon. Member will give me the right to reply so that I may convince the House that the grounds that have been offered against the Bill are based on wrong facts or on misconception. So, he should wait.

The hon. Member, Shri V. P. Nayar, expressed concern at the way the Act is being administered. He expressed doubts that the administrative machinery is not competent to handle this. More particularly, he said that it is very difficult by chemical analysis to determine the alcoholic content, the quantum. Both from point of fact and from point of chemical analysis, it is not true that this cannot be done or that this is not being done. The Medicinal and Toilet Preparations (Excise Duties) Act, 1955 gives the definition of alcohol. I am quoting from the Act itself.

“(a) ‘alcohol’ means ethyl alcohol of any strength and purity having the chemical composition C_2H_5OH .”

This is the chemical formula.

Shri V. P. Nayar: Not C_2H_6O ? Ethyl alcohol is C_2H_6O .

Shri B. R. Bhagat: This is the precise definition of alcohol given here. So far as the definite side of alcohol is concerned, it is given in the Act itself. So far as the quantum or the strength or purity is concerned, the hon. Member said that it cannot be determined or it is not being determined or rather it is difficult to determine. Let me point out that this is not that this is not only in this that the problem arises.

For example, on the customs side, we are faced with problems every day when particular types of alcohol come up before us. It is being decided in the chemical laboratories and they judge the precise alcoholic content. That is so far as customs is concerned.

So far as the administrative side is concerned, the proceeds go to the State Government, and each State Government has its own laboratories in which they test these samples. They have two methods. One is the hydrometer which is for rapid determination. Suppose a problem comes as to how much is the alcoholic content. Then, they apply this method. They determine it through the hydrometer. Moreover, they have a continuous testing of all the brands or qualities. They maintain the samples and proper noting is kept. When a new brand comes they test it and a note is kept. They go on having periodical tests and ascertain the alcoholic contents. So, to say that these things cannot be determined and they go on the whims of the tax officials or administrators and these manufacturers are harassed is not correct. The House may come to its own conclusion. But the facts are that administratively we are able to tackle it because we have been doing it for a large number of years. Chemical analysis is becoming more and more perfect. I do not mean to say that there is no weakness. There are weaknesses. There may be, sometimes, problems which baffle such analysis. But it is being tackled and it is not beyond the pale of our chemical experts to tackle this problem. So, it is wrong to base one's conclusion on the presumption that it cannot be chemically analysed and there is complete anarchy so far as.....

Shri V. P. Nayar: I never said that. I said.....

Shri B. R. Bhagat: Let me complete it. You have raised so many points. Let me answer.

Then, we have a Standing Committee consisting of the chief chemist, the Drug Controller and the alcoholic content of all the drugs is being examined.

Hon. Member, Dr. Sushila Nayar, said that in Bombay the *asavas* and *arishtas* were being used as intoxicants. We have power under the Act,

if we find, as a result of chemical examination, that the alcoholic contents of *asavas* and *arishtas* are so high that they can be used as intoxicants, to put them outside the pale of the Act and they may attract the higher duty. But the hon. Member, Shri Vyas says that these *asavas* and *arishtas* are different from intoxicants and you can drink bottle after bottle and you will not get intoxicated. He may be correct; I do not know. I have never tasted *asavas* or *arishtas* any time in my life and I do not need them. My own system generates as much vitality. But the fact remains that if the preferential treatment given to an ayurvedic drug is being actually abused, as pointed out by the hon. Member, we have powers under the Act to put it outside the preferential list, so that it will attract the higher duty. That point is taken care of.

The hon. Member, Dr. Melkote said that it is very difficult to determine the alcoholic content of the various patent medicines coming in the market and that it is beyond the capacity of anybody to test them because so many are coming. But he forgets the point that under the Drugs Act, and Rules which is under the control of the Health Ministry, each patent medicine has to give a declaration about the alcoholic content. It has to be declared how much alcohol each patent medicine contains. Our job is only to test it and find whether what they have declared is correct. We go on having sample tests from time to time. In a large number of cases, they are correct. Where they are not correct we penalise them. It is not as if that the problem is such that we are not able to tackle it. All these assumptions on points of fact are based on absolutely wrong facts. Therefore, the conclusion also is wrong.

Shri Vyas said, let the big ayurvedic manufacturers be taxed, but not the small ones, the cottage industries and others. I may inform him that we have already a proviso to rule 66

[Shri B. R. Bhagat]

under which alcoholic medicinal preparations sold by ayurvedic medical practitioners to their own patients are exempt. So, any vaid who prepares it on a cottage industry scale and gives it to his own patients has not to pay any duty. This gives the benefit to the bona fide ayurvedic practitioners. The duty is attracted only by large-scale manufacturers.

This is not a new Act. We have come in only for an amendment of the Act because of certain things. The first is we are converting the rates in terms of the metric system. Secondly, we are taking this opportunity, on the demand by most of the States because they are the beneficiaries, of raising the duty on toilet preparations having alcoholic content from Rs. 17.8 to Rs. 32. Thirdly, as a result of the Finance Bill, wherein the Finance Minister has imposed a duty on certain categories of cosmetics and toilet preparations, an *ad valorem* duty of 25 per cent. for administrative reasons we have to make it consequently 25 per cent, and 10 per cent, on patent medicines which the Finance Minister has done and which the House has passed. We have to apply it to this Act also. All these three conditions are such that they merit careful consideration. Some hon. Members ask us to stay this Bill or withdraw it. If we withdraw it what will be the position? The position would be worse. Because the previous Act will remain in force, the metric system will not apply. Rs. 17.80 will apply instead of Rs. 32. There is also the Finance Bill. A section of it will attract 25 per cent. *ad valorem* duty on cosmetic and toilet preparations and ten per cent. *ad valorem* on patent proprietary medicines. So, from whatever point of view we see, it would not be advisable at this time to either postpone it or to refer it to a Select Committee, as some hon. Members said. Why should it be referred to a Select

Committee? It is only a simple measure, there is no new principle involved. I agree that we have to perfect the administrative system with regard to the chemical analysis to find out and determine the quantum or strength of the alcohol. I agree that it should be strengthened but it is being done every day. All the fears that have been expressed by hon. Members are not based on facts. We are streamlining it and postponing the Bill will mean chaos. Certain measures had already been passed by the House and unless consequential changes are made, the position would be worse. So, I commend this Bill for passing by the House.

Mr. Deputy-Speaker: The question is:

"That the Bill to amend the Medicinal and Toilet Preparations (Excise Duties) Act, 1955, be taken into consideration."

The motion was adopted.

Mr. Deputy-Speaker: The question is:

"That Clause 2 stand part of the Bill."

The motion was adopted.

Clause 2 was added to the Bill.

Clause 3-(Amendment of Schedule)

Shri B. R. Bhagat: Sir, we have an amendment; it is a long one. It has already been circulated. There is a small correction which I would like to make in that before it is adopted

here. It is said in this amendment in the Explanation I—

“Patent or proprietary medicine’ has the same meaning as in clause (d) of Section 3....”.

In place of (d), it should be (h). I

explained this amendment while making the main motion. It is consequential change because we have changed the Drugs Act. The principle of this amendment is all explained in the Bill and so I need not take the time of the House in explaining it further.

Amendment made:

Page 2.—

for lines 3 to 38, substitute—

“THE SCHEDULE

(See Section 3)

Item No.	Description of dutiable goods	Rate of duty
<i>Medicinal Preparations</i>		
1	Medicinal preparations, being patent or proprietary medicines, containing alcohol and which are not capable of being consumed as ordinary alcoholic beverages	Ten per cent. <i>ad valorem</i> .
2	Medicinal preparations, containing alcohol, which are prepared by distillation or to which alcohol has been added, and which are capable of being consumed as ordinary alcoholic beverages.	Rupees three and eighty-five naye paise per litre of the strength of London proof spirit.
6	Medicinal preparations, not otherwise specified containing alcohol—	
	(i) Ayurvedic preparations containing self-generated alcohol, which are not capable of being consumed as ordinary alcoholic beverages.	Nil
	(ii) Ayurvedic preparations containing self-generated alcohol, which are capable of being consumed as ordinary alcoholic beverages.	Thirty-eight naye paise per litre.
	(iii) All others	Rupee one and ten naye paise per litre of the strength of London proof spirit.
4	Medicinal preparations, being patent or proprietary medicines, not containing alcohol, but containing opium, Indian hemp, or other narcotic drug or narcotic.	Ten per cent. <i>Ad valorem</i> .
5	Medicinal preparations, (not being patent or proprietary Medicines), not containing alcohol, but containing opium, Indian hemp, or other narcotic drug or narcotic.	Nil.
<i>Toilet Preparations</i>		
6	Toilet preparations containing alcohol, or opium, Indian hemp, or other narcotic drug or narcotic.	Twenty-five per cent. <i>ad valorem</i> .

[Shri B. R. Bhagat]

Explanation I.—“Patent or proprietary medicine” has the same meaning as in clause (h) of section 3 of the Drugs Act, 1940 (23 of 1940).

Explanation II.—Where any article is chargeable with duty at a rate dependent on the value of the article, such value shall be deemed to be,—

(a) the wholesale cash price for which an article of the like kind and quality is sold or is capable of being sold at the time of the removal of the article chargeable with duty from the place where the duty is leviable thereon in accordance with the provisions of section 3, or if a wholesale market does not exist for such article at such place, at the nearest place where such market exists; or

(b) where such price is not ascertainable, the price at which an article of the like kind and quality is sold or is capable of being sold by the manufacturer or his agent, at the time of the removal of the article chargeable with duty from the place where the duty is leviable thereon in accordance with the provisions of Section 3, or if such article is not sold or is not capable of being sold at such place, at any other place nearest thereto:

Provided that in determining the price of any article under this Explanation, no abatement or deduction shall be allowed except in respect of trade discount and the amount of duty payable at the time of the removal of such article from the place where the duty is so leviable.

Explanation III.—“London proof spirit” means that mixture of ethyl alcohol and distilled water which at the temperature of 51 degrees Fahrenheit weighs exactly 12/13th parts of

an equal measure of distilled water at the same temperature.

Explanation IV.—Where in respect of any dutiable goods the unit of assessment for the purpose of any duty under this Act is a litre of the strength of London proof spirit, the duty shall be increased or reduced in such proportion as the strength of the dutiable goods is greater or less than that of the London proof spirit.”

—[Shri B. R. Bhagat].

Shri Shree Narayan Das: The clause, as amended, may have to be put to vote before the Enacting Formula and the Title are put to vote.

Mr. Deputy-Speaker: The question is:

“That Clause 3, as amended, stand part of the Bill.”

The motion was adopted.

Clause 3, as amended, was added to the Bill.

Clause 1, Enacting Formula and the Long Title were added to the Bill.

Shri B. R. Bhagat: Sir, I beg to move:

“That the Bill, as amended, be passed.”

Mr. Deputy-Speaker: Motion moved:

“That the Bill, as amended, be passed.”

Shri V. P. Nayar: Sir, I want to refer, in particular, to a misrepresentation of fact which the hon. Minister was pleased to make in respect of the points which I urged. I never for a moment said that the presence of alcohol could not be determined at all. I said that there are a number of chemicals for that. If the hon. Minister wants them, as he claimed to have no special knowledge, I am prepared to help him with that much knowledge

Preparations (Excise
Duties) Amendment
Bill

of chemistry. There are a number of chemicals which can be used to find out the presence of alcohol in aqueous solutions and anhydrous alcohol can be detected. I agree that it is possible to determine the percentage of alcohol. But the point I urged was different. The basis of assessment of duty is not either the presence of alcohol or the percentage of alcoholic content. The duty becomes assessable only on the basis of alcoholic content calculated in terms of 'London proof spirit' for which there is a definition. You were not in the Chair, then, Sir. 'London proof spirit' is a very technical word. It means that mixture of ethyl alcohol and distilled water which at the temperature of 51 degrees Fahrenheit weighs exactly 12/13th parts of an equal measure of distilled water at the same temperature. I want to ask the hon. Minister; how many samples have been determined on the basis of this 'London proof spirit' and then duty assessed. He said about the customs. If it is a case of ayurvedic preparation, every village out of the 500,000 villages will manufacture. In the case of customs there are only 5-6 or 10-15 ports; it is easy. The incoming goods are there. So, it is not calculated on the basis of the 'London proof spirit' or the U.S. proof spirit. There is another thing like the U.S. proof spirit. It is not on the basis of that that the duty becomes payable. It is on the basis of the presence of alcohol which can be easily determined. As I said at the outset, if the hon. Minister had heard me, the compilation and comparison of the refractive index would become necessary in order to determine the content of aqueous solutions. He seems to have had the advantage of consultations after I gave this point and if so let him tell us in how many cases the duty has been assessed taking into account the quantity of alcohol calculated in terms of London proof spirit. Otherwise, we cannot agree to this legislation.

The second point made by him was that none of us were here when that law was passed. But nothing is be-

yond Parliament. Although we have committed ourselves to the principles of the Bill, there is no rule or law which compels us to adhere to it for eternity we can change the law when we find it difficult. But he said that this had been there and nobody has questioned it. I cannot agree to it for a moment. I still believe and hold that no in one case duty would have been assessed on the basis on which duty is assessable under the Act.

I pointed out a third difficulty also. This legislature cannot say alcohol and leave it to courts to interpret it. It will create a number of difficulties. As I pointed out, alcohol has two meanings. Popularly, alcohol means ethanol. But it also denotes in a general sense a group of organic compounds of which ethanol happens to be one; there are several others. I do not want to enumerate them. He should not, therefore, leave it vague like this because ethanol is not the only alcohol which goes into toilet preparations; there are every so many other kinds.

Then, we want to know how much has been collected as duty last year on account of this. The Act was enforced already. How much does he expect to collect this year?

Shri B. R. Bhagat: I must concede that the knowledge of chemistry of the hon. Member is several times greater than mine. But so far as I have been able to ascertain, the difficulty about the determinant concept in regard to London proof spirit which the hon. Member has raised is not experienced by us in the department for the simple reason that they have been assessing the duty on this method not only under this Act but also previous to this, namely, when the State Excise Act was in operation. So, for decades, this was our experience.

Secondly, so far as our experience goes in respect of the determinant concept or principle, as far as I understand, the London proof spirit has

[Shri B. R. Bhagat]

been defined as the mixture which at 51 degrees Fahrenheit has a certain weight. We have also a standard conversion table applicable in all such cases and which has been evolved as a result of experience, just as we have the tables in the case of petrol. Although referring to the determinant concept of principles in regard to London proof spirit will be difficult, because of the conversion tables it has been easy to determine it. So, it is not a problem of the nature and dimension which the hon. Member made out.

Shri V. P. Nayar: The conversion table has no legislative sanction. Only the Bill is legislative sanction.

Shri B. R. Bhagat: The conversion tables are there and they are being operated and they are more or less accurate.

Shri V. P. Nayar: If you definitely say it in the provisions of the Bill it will become law. The conversion table is not law.

Shri B. R. Bhagat: It is true, but it has been evolved through experience. Just as in the case of the metric system and in the case of petrol, etc., we have an exact table ready at hand. For instance, if you go anywhere, you will see the grocer consulting the conversion table in the shop to sell the commodities. Similarly, we have this conversion table and it is easier to operate accorded to that.

Then, about the revenue which we have got—

Shri V. P. Nayar: In how many cases is this levied?

Shri B. R. Bhagat: We are determining it through that system. There is no other system. It is difficult for me to say in how many cases it is done. It is being done on that basis,

namely, the conversion table. The revenue at present from medicinal preparations is Rs. 69 lakhs and from toilet preparations Rs. 12 lakhs. The total is thus Rs. 81 lakhs. The additional revenue by the changes proposed in this Bill will be Rs. 15 lakhs. So, it is not much.

Mr. Deputy-Speaker: The question is:

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

The motion was adopted.

ORISSA DEMANDS FOR GRANTS*,
1961-62

Mr. Deputy-Speaker: The House will now take up the Demands** for Grants for 1961-62 in respect of the State of Orissa. We have three hours for this subject. Need we apportion time to different Demands or shall we take them as a whole?

Shri Chintamani Panigrahi (Puri): As a whole.

Mr. Deputy-Speaker: Very well.

DEMAND NO. 1—ELECTION AND OTHER
EXPENDITURE RELATING TO THE HOME
DEPARTMENT.

Mr. Deputy-Speaker: Motion moved:

"That a sum not exceeding Rs. 33,39,074 be granted to the President, out of the Consolidated Fund of the State of Orissa to complete the sum necessary to defray the charges which will come in course of payment during the year ending on the 31st day of March, 1962, in respect of Election and other expenditure relating to the Home Department."

DEMAND NO. 2—JAILS

Mr. Deputy-Speaker: Motion moved:

"That a sum not exceeding Rs. 31,13,171 be granted to the

*Moved with the recommendations of the President.