

16.33 hrs.

DELHI MUNICIPAL CORPORATION  
(AMENDMENT) BILL**The Minister of State in the Ministry of Home Affairs (Shri Datar):**

Mr. Chairman, I beg to move\*:

"That the Bill further to amend the Delhi Municipal Corporation Act, 1957, be taken into consideration."

This Bill has been brought forward principally with one object in view, namely, the splitting up of constituencies. You are aware, Sir, we already taken a decision and certain changes have been made in the other Act according to which a double member constituency was to be split up into two and one of them was to be reserved for the Scheduled Castes or the Scheduled Tribes as the case may be. So far as the Delhi Municipal Corporation Act was concerned, it was devised on just a slightly different basis. Because, here we had certain double member constituencies and we had also three-member constituencies. It was naturally considered that all the constituencies in respect of all the 80 elective seats ought to be single-member constituencies and twelve have to be reserved for Scheduled Castes. For that purpose, this Bill had to be brought forward because elections are likely to be held next year and therefore, the sooner this is done, the sooner double or three-member constituencies are split up, the better. Because, a member of steps will have to be taken in this respect. It is for this purpose that certain amendments in the present provisions of the Delhi Municipal Corporation Act, namely section 5 have been proposed.

In addition to this, advantage was taken to make certain further amendments, about 8 or 9 principal ones. Certain difficulties were felt and therefore, it was considered necessary

that on this occasion other amendments also may be placed before the House and their consent taken for amending the law to that extent. Therefore, what has been done is, with this, other important amendments and a few incidental ones have also been included in the present Bill. I would like to mention very generally the nature of these other amendments.

For example, you will find that in respect of section 113(2)(d), a technical difficulty arose, and, therefore, an amendment was sought. In that section, the word 'supply' had not been used. But under this Act, we had to supply electricity amongst others to two important bodies. Therefore, the question arose as to whether this supply could be made under the Act. For example, the NDMS and the Military Engineering Services had to be supplied with electricity, but the present Act made provision only for its sale, and the word 'supply' had not been used at all. Here, the supply was in bulk. The question arose whether for this supply the Delhi Municipal Corporation was entitled to get full remuneration or full price including the tax. A technical objection was raised. Naturally, they are entitled to raise the technical objection that inasmuch as the word 'supply' had not been used, therefore, the supply should not necessarily be considered as a sale.

In respect of this question, the highest legal opinion as taken, and they stated that it would be better to have an amendment of the Delhi Municipal Corporation Act and place the word 'supply' also beyond any reasonable doubt, so that for this bulk supply also, the Delhi Municipal Corporation will be entitled to claim its price. That has been done in this Bill and that constitutes the next important amendment to this Act.

Then, other difficulties also arose. You will find that certain lands had

\*Moved with the recommendation of the President.

to be transferred to evacuees under an Act known as the Displaced Persons Compensation and Rehabilitation Act. You are aware that we had to deal very largely with the displaced persons here, and property had also to be given to them. Thus property was given to them, and possession was also given to them. But it was laid down that whatever price had to be paid by them was to be paid in certain instalments. Whenever such Government property has to be given, what happens is that though the actual possession was transferred to the transferees, technically, under the Delhi Municipal Corporation Act, the title remains with Government. Inasmuch as the title remained with Government, and Government property was immune from taxation, the transferees, therefore, claimed that they were not entitled to pay any taxes at all in respect even of services like the fire service and other services. That also was a highly technical objection, for, if one has been in possession, and if one receives services from those whose statutory duty it is to provide those services, then, normally, according to the usual commonsense, one is bound to pay for those services. But, a technical advantage was taken, and it was contended that inasmuch as the title to the property did not technically pass to the transferees until the last instalment was paid—and the last instalment would be paid after a number of years—the property in law continued to be the property of Government, and inasmuch as under the Delhi Municipal Corporation Act, Government property is exempt from such taxation, therefore, the transferees also claimed that they were not bound to pay any taxes at all. It was a very unusual objection that they raised, and it was a very unusual stand that they took, but that had to be met. Therefore, what has now been done is that sections 119 and 120 have also been sought to be amended. It has been stated that these transferees who are in possession of the property would be liable to pay the tax from the date of the establishment

of the Corporation or from the date the actual possession was transferred to them, whichever is later. This is a perfectly equitable and understandable arrangement, because if you are in possession of a property and if you enjoy the services, you are bound to pay, even though technically the title to the property vests in the Government. Accordingly, these changes have been made in sections 119|120.

The next change that has been made is more or less with the object of avoiding delays. Whenever houses have to be taxed, a certain procedure has to be gone through. The rateable value has first to be fixed. After that, a certain percentage—it may be between 10 and 20 because it is for the Municipal Corporation to fix up that particular ratio—is fixed. Then on the basis of the rateable value of the property, a list, known as the assessment list, is prepared. The actual amount of tax that has to be paid by the owner or the occupant is also mentioned. This double process of fixing up the rateable value and then publishing also the assessment list led to considerable delays. On account of certain unforeseen difficulties that remained, the tax could not be recovered for all the period. For that purpose, it has been proposed to make certain amendments.

When a rateable value has been fixed, then a certain percentage automatically constitutes the tax that has to be paid by the owner or occupant of the particular house or property. It is not necessary that actually the assessment list should be prepared fully, because that takes a lot of time. Therefore, it is considered necessary that this double process of putting down what is obvious should be avoided. The owner or occupant of the property can easily find out from the rateable value the amount or quantum of tax to which he would be liable, because that depends upon the percentage. Hence this circumstance which led to delays has also been eliminated.

[Shri Datar]

What happened was this. In certain cases, notice was first given. The assessment list was prepared. Sometimes delays occur. As the Act stands at present, the amount would be recovered only after the assessment list has been duly prepared. Thereby, what sometimes happened was that certain parties of assesseees or owners of the properties had not to pay any tax at all on account of the technical difficulty. Whenever a notice has been given in this respect, the tax can be recovered from the date of the notice. That also has been provided for.

The next amendment is in respect of cows. The general view was that all the cows should be exempted from tax. You can understand the great difficulty and inconvenience in allowing so many cows to be lodged in the houses, thereby creating certain problems bearing on sanitation and health as well. But all the same, inasmuch as a claim had been made that in respect of a milch cow some exemption ought to be granted, that principle was accepted, viz, for a family, one cow shall be exempted from tax.

**Shri Tangamani (Madurai):** Why not include she-buffaloes also?

**Shri Datar:** If a man is in possession of more two cows than one, you would agree that he has so many heads of cattle for the purpose of trading in milk and not necessarily for the purpose of using milk for his family.

**Shri Tyagi (Dehra Dun):** A family has to keep two cows, because when one cow goes dry, another cow must be used.

**Shri Datar:** That question was considered. It was a matter of revenue also. For each cow, Rs. 30 is the maximum tax per year. That also may be taken into account. Considering the desirability of allowing one family to have at least one cow,

two principles were accepted. If a man has only one cow, the presumption is the milk of that cow is utilised for the family itself and the family is entitled to exemption. If the man goes a step further and if he has got more than one milch cow, he will be liable to pay the tax in respect of all the cows together, because then it ceases to be a question of milk for the family; it becomes a question of trading in milk and making money.

**Shri Tyagi:** I am afraid the hon. Minister has not followed my argument. For the sake of keeping a cow for family use, two cows are necessary, because one goes dry for half the year.

**Shri Datar:** I am just pointing out the present amendments. He may give his suggestions during his speech and we will consider them.

A resolution has also been passed by the Corporation and they made this suggestion, which we accepted.

Therefore, amendments have to be made in section 137 by adding sub-clause (d).

Then, there are occasions when under the Act, taxes have to be refunded when the property remains vacant or when it is unproductive. The provision in the original Act was rather stringent. It was stated that if, for a particular period, a property had remained either vacant or unproductive, the tax had to be refunded by the Municipal Corporation. That was considered as rather harsh. So it is now proposed that this refund has to be confined only to a certain fraction—in respect of houses, it may be two-thirds and in respect of land it may be half. Otherwise, the Corporation will have to refund a very large amount. That constitutes some element of inequity also. Therefore, that also has been proposed.

The next amendment is in respect of section 343 which has been substituted by another provision. It deals

with the demolition of unauthorised erections. As hon. Members are aware, Delhi is a place which is almost notorious for these unauthorised erections.

**Shri Braj Raj Singh:** (Ferozabad): Because of you.

**Shri Datar:** Not because of us, but because of a number of other circumstances which I might point out to the hon. Member if he desired. What happens is that overnight a building arises, overnight a hut or a *Jhompdi* as they call it arises with a view to make it a settled fact, and therefore Government have to take steps. Sometimes you would agree these steps should be as summary as possible; otherwise, if it becomes a nuisance, and if nothing can be done immediately, if the matter every time has to go to the court, then a number of difficulties arise, and the whole question of the improvement or the development of Delhi is held up. That also may kindly be considered. It is for this purpose that section 343 has to be dealt with properly.

I would invite the attention of hon. Members to a resolution passed by the Delhi Municipal Corporation. They have stated that they should be armed with summary powers of demolition. As you are aware, ordinarily the civil courts have jurisdiction in such matters, and oftentimes stay orders are passed, injunctions also are passed, and the whole work is held up. What has been proposed is that in proper cases, to a certain extent resort to a court of law is allowed by way of appeal, but in other respects, it would be difficult to allow all these processes of law to be gone through and the whole work held up. Therefore, what has been done is that it would be open to the aggrieved person in a case where an adverse order is passed in the course of the summary power of demolition, to file an appeal within 15 days before the District Judge. And then a provision, a fairly important provision has also been introduced. If

litigants have to go to a court and obtain stay orders as a matter of course, then difficulties arise, and there is great loss to the authorities concerned. It is not stated that stay orders should not be passed at all, but a provision has been made that whenever stay orders are asked for, a substantial security has to be furnished before the court can pass a stay order.

As I have said, rights have been duly safeguarded. The procedure in respect of the safeguarding of rights has also been followed by allowing an appeal to be filed, but as early as possible. It should not be like ordinary civil suits or civil proceedings, where they take a lot of time. In some cases it may go on for one year or more than one year. Especially, the lawyers in this House might know how the matter takes a long, sometimes inordinately long time. So, that also has been provided for, and it is stated that when, in the course of summary powers of demolition adverse orders are passed, the aggrieved party can approach the District Judge within 15 days, and if he asks for a stay order, he has to furnish security. Therefore, I am confident that the main principles of safeguarding the rights without causing inordinate delays have been kept in view by these two provisions, namely the provision to file an appeal as early as possible, and the need to furnish security if you ask for a stay order. In other words the litigant is entitled to ask for a stay order. But after a stay order is passed, you will find that things are allowed to remain as they are for months, if not for a period even beyond a year. So, a valuable safeguard has been provided for by stating that in case such an aggrieved person wants a stay order, then he shall furnish substantial security. This is quite a usual expression. The security ought to be of a substantial and satisfactory nature to the authority concerned. For that purpose, section 343 has been completely recast.

[Shri Datar]

The last section 460. It deals with the election petitions. It is more or less a formal matter. A district judge has jurisdiction in some matters he can receive petitions and dispose of them. But inasmuch as the District Judge of Delhi has a lot of miscellaneous and varied work, he is allowed to have a number of additional judges for carrying on his work. As the law stands at present, it became more or less necessary that an election petition ought to be disposed of only by the district judge. There are provisions in the various Acts which deal with the powers of the district judges that whatever a district judge can do can also be done by the additional district judge. These powers have got to be delegated to the additional district judge. That lacuna remained in the original Act and that has been removed. Now, in this case, the additional district judge has the power of disposing of election petitions as well. Otherwise, if only a district judge were to dispose of them, then inordinate delays occurred. As I had pointed out, here in Delhi he had civil work, criminal work and a number of miscellaneous matters to be disposed of. As lawyers can easily find out under the Guardian and Wards Act and under certain other Acts, it is only the district judge who has got certain official powers to dispose of these applications which can be considered more or less as a miscellaneous sort of work. It was considered necessary that in proper cases, the work of dealing with or disposing of such election petitions ought also to be delegated by the district judge to the additional district judges. This is more or less an enabling provision. If he himself has sufficient leisure, certainly he can dispose of the election petitions himself. But if he finds that he has been overburdened with work and if he feels that a part of that work including the petitions under the Delhi Municipal Act can be transferred to the additional district judge, then naturally the work

can be disposed of early. With a view to meet that difficulty, this provision has been made.

We have got some provisions in respect of the other Acts also. These are the main amendments. There are certain other extremely minor amendments to which I need not make any special reference. These are the eight or nine principal amendments besides the one which compelled us to bring in this Bill at this time; that one amendment is with regard to the splitting up of the wards or the constituencies. That is a most important task before us. As the general elections to the Delhi Municipal Corporation are likely to be held early next year, a provision has to be made with regard to that matter.

17 hrs.

In this connection, an hon. Member raised the question whether it would be possible at this time to raise the number of Delhi municipal councillors. Under the present Act, the number is 80. 80 councillors have to be elected. Six are aldermen. So far as this number is concerned, it is possible under the present provisions to raise the number provided we have got the authorised figures about the population of Delhi. The population of Delhi has increased; that is what we know. But still, we have not got the full, authorised census figures for the purpose of taking further action in this matter. I may point out that the Delhi Municipal Corporation Act provides that the number can be increased subject to the maximum of 100. That provision could not be availed of for the simple reason that we have not got at present the detailed figures not only regarding Delhi city in general but the various wards. The constituencies will have to be re-formed and that will take a lot of time, and the greatest difficulty that we have is that we have not got full figures so far as the various parts of Delhi are concerned. Therefore, it

was not possible at this time to increase the number of wards or to increase the number of councillors of the Delhi Municipal Corporation. That has to be left to a future date, when the detailed figures are available to us.

**Mr. Chairman:** Motion moved:

"That the Bill further to amend the Delhi Municipal Corporation Act, 1957, be taken into consideration."

17.03 hrs.

**MESSAGE FROM RAJYA SABHA**

**Secretary:** Sir, I have to report the following message received from the Secretary of Rajya Sabha:—

"In accordance with the provisions of sub-rule (6) of rule 162 of the Rules of Procedure and Conduct of Business in the Rajya Sabha, I am directed to return herewith the Income-tax Bill, 1961, which was passed by the Lok Sabha at its sitting held on the 28th August, 1961, and transmitted to the Rajya Sabha for its recommendations on the 30th August, 1961, and to state that the Rajya Sabha at its sitting held on the 4th September, 1961, recommended that the following amendments be made in the said Bill:—

**Clause 13**

1. That at page 23, line 24, after the words "this Act," the words "any income thereof," be inserted.

**Clause 88**

2. That at page 73, after line 18, the following be inserted, namely:—

"(6) Notwithstanding anything contained in sub-section (5), this section shall apply to donations given for the renovation or repair of any temple, mosque, gurdwara,

church or any other place which is notified by the Central Government in the Official Gazette to be of historic, archaeological or artistic importance."

**Clause 288**

3. That at page 177,—

(i) after line 31, the following be inserted, namely:—

"(v) any person who has passed any accountancy examination recognised in this behalf by the Board; or

(vi) any person who has acquired such educational qualifications as the Board may prescribe for this purpose; or";

(ii) in line 32, for the brackets and letter "(v)" the brackets and letters "(vii)" be substituted."

17.05 hrs.

**INCOME-TAX BILL, 1961**

LAI'D ON THE TABLE AS RETURNED BY RAJYA SABHA WITH AMENDMENTS.

**Secretary:** Sir, I lay on the Table of the House the Income-tax Bill, 1961 which has been returned by Rajya Sabha with amendments recommended by Rajya Sabha.

17.06 hrs.

**EDUCATION OF GIRLS AND WOMEN\***

**Mr. Chairman:** The House will now take up the half-an-hour discussion. Shrimati Renu Chakravartty.

**Shrimati Renu Chakravartty** (Basirhat): I rise to initiate a discussion on the allocations made to women's education in the Third Plan. There was a Starred Question on the 14th August, 1961, in answer to which the Minister had made two statements which to my mind have confused the issues and misled this House. The

\*Half-an-Hour Discussion.