

[Pandit S. S. N. Tankha.]

it should ordinarily be bound by the fact that the term of imprisonment which is to be awarded to the offender shall be at least ten years or life imprisonment, unless, of course, there are such circumstances which show that it was not the offender's intention to commit such act e.g. when a person had merely taken out the bolt from a running line casually or without any evil intent proving thereby that it was not his intention to do any damage to railway property or to the life of any person. If there are any such circumstances which show that his intention was other than causing damage to the property or life of the person, then alone a lesser sentence of imprisonment may be given to the person, if the court so thinks. Otherwise in all other cases the sentence should be at least a minimum of ten years' life imprisonment as the circumstances may require.

Then, Sir, some small change has also been made in section 128. It is on the same lines as the change made in section 126. There is a proviso to section 128 similar to the one to section 126. Therefore, my remarks for both these provisos are the same, which I have mentioned already.

With these words, I support the Bill.

THE VICE-CHAIRMAN (SHRI K. K. SHAH): Any reply?

SHRI S. V. RAMASWAMY: There is nothing, Sir, except the two points that he has raised. That is all.

THE VICE-CHAIRMAN (SHRI K. K. SHAH): The question is:

"That the Bill further to amend the Indian Railways Act, 1890, as passed by the Lok Sabha, be taken into consideration."

The motion was adopted.

THE VICE-CHAIRMAN (SHRI K. K. SHAH): We shall now take up the clause by clause consideration of the Bill.

Clause 2 to 6 were added to the Bill.

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

SHRI S. V. RAMASWAMY: Sir, I move:

"That the Bill be passed."

The question was put and the motion was adopted.

THE UNION DUTIES OF EXCISE (DISTRIBUTION) BILL, 1962

THE DEPUTY MINISTER OF FINANCE (SHRIMATI TARKESHWARI SINHA): Sir, I beg to move:

"That the Bill to provide for the distribution of a part of the net proceeds of certain Union duties of excise among the States in pursuance of the principles of distribution formulated and the recommendations made by the Finance Commission in its report dated the 14th day of December, 1961, as passed by the Lok Sabha, be taken into consideration."

The House will recall that the Report of the Finance Commission, together with a Memorandum explaining the action taken thereon, was laid on the Table of the House on 12th March, 1962. Under article 272 of the Constitution, Union Duties of Excise are levied and collected by the Government of India but, if Parliament by law so provides, sums equivalent to the whole or any part of the net proceeds of such duties have to be distributed amongst the States in accordance with the principles of distribution as may be formulated by that law. The Third Finance Commission was accordingly required, under article 280(3) (a) of the Constitution to make recommendations regarding the distribution between the Union and the States of the net proceeds of Union excise duties which are to be or may be divided between them and the allocation between the States of the respective shares of such proceeds. Hon. Members will recall that prior to 1952 these duties were

not shared with the States. The first Finance Commission broke new ground in recommending distribution of 40 per cent. of the net proceeds of Union excise duties on matches, tobacco and vegetable product. The Second Finance Commission, while increasing the number of shareable commodities to eight, namely, matches, tobacco, sugar, tea, coffee, paper, vegetable product and vegetable non-essential oils, reduced the States' share to 25 per cent. The Third Finance Commission has expressed the view that, as a result of the shortage in the divisible pool of income-tax following the changes in the company tax structure and the larger revenue gaps caused by the impact of committed expenditures of two successive Plans, a more extensive use of article 272 for the sharing of Union excise duties is not only justified but is necessary. The Commission has accordingly recommended that, with the exception of motor spirit, all major revenue yielding commodities which were subjected to excise duties in 1960-61, should be brought within the divisible pool. The number of such divisible excises thus stands increased from 8 to 35. The States' share, however, has been reduced from 25 per cent. to 20 per cent. Motor spirit has been excluded as the Commission has separately recommended the payment of an annual grant-in-aid of Rs. 9 crores for the improvement of communications which is approximately equal to 20 per cent. of the net proceeds of excise duty on motor spirit.

The recommendation for the sharing of Union excises which the Government have accepted, would have a far-reaching effect. At the present level of taxation, States stand to get Rs. 34 crores more next year as their share of excise duties than what they would have got under the existing arrangements. As a result, however, of the inclusion of almost all the major revenue yielding commodities in the divisible pool, the States' share would go on increasing from year to year with the buoyancy in revenues that one would expect

through this source. The Commission's recommendation thus goes a long way in meeting the criticism that relatively the States' sources of revenue are less elastic than the Centre's.

In determining the share of each State, the Commission, while retaining the population as the major factor of distribution, has also taken into account the relative financial weaknesses of the States, the disparity in the levels of their development, the percentage of Scheduled Castes and Tribes and backward classes in their population and other relevant factors too. The Commission believed that as a result of these adjustments, the States would be brought, as far as possible, to a "comparable level of financial balance".

The Bill before the House seeks to implement the recommendations of the Commission for the distribution of the Union excise duties.

Sir, I move.

The question was proposed.

SHRI BHUPESH GUPTA (West Bengal): Mr. Vice-Chairman, I wish the matter had not come up for discussion in this House in the form in which it has come, because we will be discussing, it appears, the same subject more or less piecemeal in connection with the other two Bills as well. What was necessary for the Government in this connection was to provide for a general discussion on the report of the Finance Commission, the kind of thing that we have on such reports, and after hearing the views of the Members here they should have formulated a Bill. Even if they had formulated the Bill earlier, the Bill should have been preceded by a discussion on the report. It would then have given us an opportunity of dealing with this rather important subject in our public finance and indeed in our national life.

[Shri Bhupesh Gupta.]

But now we are asked to treat this matter piecemeal and deal with the Bill as it comes separately. I say, Sir, this would not seem very fair. It is true that we have had two other Reports of the Finance Commission and that we have had certain opportunities of discussing the issues raised by the Finance Commission on previous occasions. But that should not have precluded a thorough discussion of the Third Report, more especially after the experience of the two Five Year Plans and generally also, after the experience of the States in the matter of public finance and as regards relations between the States and the Centre. All I can say that the Government does not understand the magnitude of the problem or the urgency or the seriousness of the issues involved. It is possibly because they think that all the State Governments are under their control and that the State Governments would toe the line whatever is laid down from here. Suppose, Sir, today a number of States had been outside the control of the same party which controls the Central Government, problems would have become acute because conflicts between the State Governments controlled by certain other parties and those controlled by the Congress Party which controls the Central Government would have arisen sharply calling for a thorough discussion and mutual consultation in a different way. But now, of course, they are quite clear that they have the majority here and they can get passed whatever they like and also once it is passed, the States will more or less accept without any protest the dispensations of the Centre. I say, from the point of view of practical expediency, it may seem all right. But if you look into the problem in the larger perspective of shaping the relations between the Centre and the States or even if you look at it from the point of view of national integration which should play its part in the relations between the States and the Centre, I do not think we are settling about the task in a right manner.

Now that the Bill is before us, we have to speak on this subject rather on the general themes. Yet, I would like to make certain general observations, in this connection because the basis of the Bill is the Report of the Third Finance Commission. This is a long-standing issue facing the public finance of the country. Those who have studied economics will know well how this matter had come up even during the British times when we did not have either independence or any kind of autonomy in the States even in that set-up, when a kind of steam-roller unitary government prevailed under the old Constitutions. Even at that time, the State Governments functioning under the British felt that something should be done with regard to adjusting the finances especially in regard to the relations between the Centre and the States. There had been a long-standing controversy as to how the taxes, especially the income-tax, should be divided between the Centre and the States—at that time between the Central Government and the Provincial Governments. I do not deny the existence of the controversy, and this controversy is not easy to resolve. I entirely agree. But I should have thought that the Third Finance Commission should be tried to face the problems before it not more or less in a routine manner but in the context of the new things not only as they are today but as they are going to shape in the coming future. We have got what is called a quasi-federal Constitution. I do not say 'federal Constitution' although the spirit is there, but a quasi-federal Constitution because most of the powers, many of the powers—much of the power, shall I say—that should remain with the States are now in the hands of the Central Government. Therefore, in that way it is more unitary in character than federal. At the same time structurally speaking, we have got the State Assemblies, Legislatures, State Budgets and so on. They function more or less in the same way. But if you

go a little deeper into the affairs, it would immediately lead you to think that the States do not have any substantial, real power, especially in the matter of finance. Perhaps at the time when the Constitution was framed, this aspect did not figure very much in the minds of the makers of the Constitution. It was understandable at that time. We had just become free and the concept of welding India into a solid nation was uppermost in the minds of those people who framed the Constitution and all others as well. In that background it was quite understandable that it should be the dominant thought as to how to put the different segments of our country into a whole, namely, the Indian Union. And as you know, Sir even after that, for some time we had three kinds of States, Part 'A' States, Part 'B' States and Part 'C' States. They had different types of powers also and different arrangements as well in some respects at any rate. But now the arrangement is more or less complete. Especially after the linguistic reorganisation of the States, now that the Indian Union has taken shape and the States have been more or less scientifically organised in the country in the present form, what is essential is to go into the other aspect of the matter as to what should be the relation between the States and the Centre, what should be the powers of the constituent States of the Indian Republic and what should be the power of the Central Government in matters of finance as indeed in other matters as well. This should have been the main consideration today. Firstly, for the sake of national integration it is important. I do not think that we can get very far along the road to national integration if we do not put the relations between the States on the one hand and the Union Government on the other on a sound, democratic, federal footing. If the hang-over of the past is allowed to continue, if the Central Government enjoys so much financial power as it does today and the States re-

main shorn of so much financial power as they suffer from today, then indeed we shall not succeed in bringing about national integration, as far as that aspect of the problem is concerned. Today it may not seem very acute but if these things continue, the problem is bound to become acute. Take for example certain separatist slogans which have come up in the South, slogans by the D. M. K. They have spread in Tamil Nad and so on. We do not support such separatist slogans. They are wrong—we are all agreed—whatever the D.M.K. may feel about it. What is the material basis, objective basis, on which such slogans come up? Where does such an approach get sustenance from? Sir, it is quite clear, if anyone objectively studies the situation, that these slogans derive strength from the fact that large sections of the people in the South feel that they are not being given proper attention to. And coming to the Constitution, the States in the South and the States in other places feel . . .

SHRI N. SRI RAMA REDDY (Mysore): The hon. Member is referring to the entire South. It is not very correct. It refers only to a portion of the South, Madras.

SHRI BHUPESH GUPTA: To some extent, you are right. I know that the D.M.K., exists in Madras only. But the feeling is there. I will come to it. This demand of the D. M. K. is perverted. That is what I am saying. I am just trying to bring before the House the objective conditions which at times seem to be distorted in order to give rise to certain rather dangerous slogans.

SHRI GOPIKRISHNA VIJAIVAR-GIYA (Madhya Pradesh): I may point out that this is exactly the reason why Finance Commissions are being appointed from time to time and they determine the thing.

SHRI BHUPESH GUPTA: Yes, I should have thought so; that should have been the task of the Finance Commission, but that has not been done. This is my complaint. This is tampering with the problem, or rather, if you like it that way, if you put it that you do something, then I shall say it is tinkering with the problem, because you are not handling it properly in its entire perspective. This is what I say.

Now coming to my point, this is a situation which has arisen and which is exploited by others. Now here again I think hon. Members read the Budget speeches of the Finance Ministers of the States. Some of them I take pains to read, and you will find that there is always an under-current, a grievance and complaint, that in financial matters they do not have power—the States. Mind you, these complaints come from the leaders of the Congress.

THE VICE-CHAIRMAN (SHRI K. K. SHAH): Mr. Bhupesh Gupta, this is allotted one and a half hours. Half an hour . . .

SHRI BHUPESH GUPTA: Sir, I have just started. I know there will not be many speakers. I will bear the time in mind. There will not be many speakers, not many from this side at least.

Now, Sir, the speeches would make it very clear that they suffer from a grievance. To cut short here I may just point it out from the report itself, from page 36:

"Most of the States have complained that there is a perceptible trend of centralisation of resources, in addition to centralisation of certain State functions."

This is what, as you know, the report itself notes. Therefore, I need not labour that point any further to save time.

And then, Sir, with regard to Union Excise Duties the report says that a majority of the States demanded that the entire net proceeds should go to the States. These are two main points which should be noted as far as Excise Duties are concerned; the States came to the conclusion, at any rate, the majority of the States came to the conclusion that the entire net proceeds, not 20 per cent. but the entire proceeds, should go to them; almost all the States, most of the States, the words used here are "most of the States"—complained against the overcentralisation of the powers of the Centre in matters of State. Sir, to sum up that particular aspect of my point I would like to say that what is needed today is a radical orientation in the entire approach and, if need be, an amendment to the Constitution. Now here the Finance Commission itself says that it had to function under its terms of reference and the provisions of the Constitution, and it is the constitutional provisions that put a limitation on the Finance Commission discussing the subject with a broader mind. Therefore, Sir, my first complaint in this context is that it is not enough to appoint a Finance Commission. It is necessary for the statesmen of the country and for the ruling party to consider whether the time has not come for amending the Constitution in regard to those particular articles which deal with such matters. I submit, Sir, it is long overdue that we should amend the Constitution in order to give more financial powers to the States. Otherwise the federal concept of the Constitution is not enforced; what is promised to the ear is broken at the heart; you have promised a federal constitution to the States but are breaking it at the heart of the State. This is what I would say. Now the time has come, therefore, to revise the constitutional provision and bring this constitutional provision in line with the concept of a federal Constitution where the States must have greater financial powers. Therefore, Sir, once again I fully

support the substance of the grievances that have been expressed by the State Governments even though these Governments are under the control of the ruling Congress Party. Here I am not speaking from a party angle at all. I know how they may use or misuse the money, but the States have demanded—the States mean, in the context, the Congress Governments in the States—and let it be known that we are entirely with the States in this matter of demand for greater economic power and greater grip over the resources of the Indian Union for shaping policies and for developmental activities. This is what I would like to say. Now, Sir, I think the Government is proceeding more or less in the old British way. It is not a quarrel over percentages; undoubtedly percentages—proportions—are important, but here, in the new context of things, we should deal with the questions of principle. Are we willing to give more powers to the States and make more resources available to them? Not by way of charities or grants and so on, but by way of extending to them the constitutional and legal right to have control over the resources. That is how it should be viewed. This kind of doling out something to the States is demoralising for any federal system and would certainly be insulting to a Government when that Government would not be functioning at the bidding of the Central Government, that is to say, the Government that controls the same party. We have known how difficult it is—when we were controlling the Government in Kerala—to get things done, because of the constitutional difficulty, lack of resources and so on, and I understand some difficulties are being voiced by Mr. Kamaraj Naddar and others.

(Time bell rings.)

Give me a little time over this matter. We have saved a lot of time on other Bills. Precisely because of that . . .

THE VICE-CHAIRMAN (SHRI K. K. SHAH): Out of 90 minutes, 40 minutes are given to the Opposition and 50 minutes to others.

SHRI BHUPESH GUPTA: Sir, I tell you; I think we have saved on other Bills. In order to have a better discussion here we did not speak on the other Bills. On the Railway Bill itself you have saved a good amount of time. You will not be behind the time-table. I can tell you, Sir, that there are not many speakers, not many from this side at least, and the overall time will not be exceeded.

SHRI M. H. SAMUEL (Andhra Pradesh): He is suffering from a misapprehension. He is taking the States' demands for more funds to mean as less power in the hands of the States for the exercise of their own functions. These are two different things altogether. Their asking for more funds does not mean that they do not have the power over their own finances.

SHRI BHUPESH GUPTA: I was always under the apprehension that the hon. Member will get up to support the Minister—I am not suffering from any misapprehension—and it has been so. I know, Mr. Vice-Chairman, the constitutional provision. I know the States have some powers, but these powers are extremely limited, and this has been the evidence of the State Governments before the Finance Commission, and one has to read the report of the Finance Commission to understand the obvious truth. I do not know why the interruption in this connection at least is called for. I am discussing neither the Soviet Union nor China.

Now this is the position. I say that powers are there but they are inadequate. Today, do you want to make the States of India charity boys of the Central Government? If you do not want to make them charity boys of the Central Government, it jolly well stands to reason that you should give them more powers, powers in