The debate on Foreign Affairs will take place on August 17, 1960; the discussion on the general strike of Central Government employees will take place on August 22, 1960; and the discussion on the Third Five Year Plan will take place on September 5 and 6, 1960.

The House stands adjourned till 2.30 P.M.

The House then adjourned for lunch at two minutes past one of the clock.

The House reassembled after lunch at half-past two of the clock, MR. DEPUTY CHAIRMAN in the Chair.

THE DRUGS (AMENDMENT) BILL, 1960—*continued*

DR. R. B. GOUR: Mr. Deputy Chairman, before we adjourned for lunch, I was telling the House that when the Government takes over administrative powers under the Concurrent List, they will have to give us an explanation because after all concurrent powers have been given to the Central Government for uniformity and planning, not necessarily for taking over administrative control. Therefore, the point raised by Mr. Sinha has to be very seriously considered. We do not deny the Government's right to legislate because we do want uniform legislation in this regard. We do not deny the Government the right for overall planning and to guide planning in this respect and also overall control but at the same time here the administration of the Drugs Act is sought to be taken over by this Bill. Therefore, a more valid explanation will have to be given to us, particularly about the details of the views expressed at the Shillong Conference of Health Ministers.

Coming to the merits of the problem before us, this Act had been passed in 1940, to regulate the import, manufacture, distribution and sale of drugs and at the same time we feel that since 1940 to this date, there has been a certain effort, we do not deny it, but the question of manufacture of drugs and the sale and distribution of drugs is there. To what extent have you controlled? To what extent have you control over the quality of the manufactured drugs? To what extent have you control over the prevention of distribution of spurious drugs? This is becoming a scandalous business. I tell you from my personal experience that in a particular hospital, when morphia injection was given to a patient, we saw no action on the patient and we could not repeat morphia injection so lightly because it would lead to morphia poisoning. When the ampoule of morphia was sent for chemical analysis, we found that there was no morphia in it.

THE MINISTER OF HEALTH (SHRI D. P. KARMARKAR): He must have taken something else by mistake.

DR. R. B. GOUR: It is exactly this sort of light treatment on the part of the Ministry that I do not like. It is wrong. I will tell you privately the name of the hospital.

SHRI N. M. LINGAM: That is why this Bill has been brought forward.

DR. R. B. GOUR: But such a thing is callous. I do not want people to treat this lightly, whether it is the Government or hon. Members of this House. I can tell you that streptomycin vials are taken away and starch is put in them and sold in the market. It has become a regular racket. You have under the administration the rule that chloral hydras produced in one particular State has to be sold in some other State which means you cannot draw on the product produced in your State. I do not understand the logic. What happens

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is, chloral hydras from one capital goes to another and comes back labelled as something else. Chloral hydras is used for adulteration of toddy. It is a narcotic drug and a poison. With prohibition in vogue, these are going on, more particularly in the dry areas. Therefore, a very stringent control on the production distribution and sale of goods is the urgent requirement of the country, because otherwise you are playing with the lives of people I know of dry areas where the addicts are given injection. That is killing people by slow death. All these are going on under our nose. There is no stringency about the implementation of the Act. I know of a distributor of medicines who was arrested for wrong labelling of drugs. He printed labels of British concerns in some other city and labelled the medicines and tried to sell them. They were spurious drugs. We know that he has been let off with a little fine and above all, he has been appointed as the Medical Supplier to the Governor. This matter was raised by me in a personal letter to the then Health Minister of the Union Government but nothing could be done. Therefore, the question of very stringent control over the distribution of drugs is very important. So, I do not agree with either Mr. Sapru or Mr. Bisht when they say that the question of punishment must be left to the judicial authorities. Here is a crime committed and through your legal jugglery you say that punishment can be reduced or that he can be let off, with a little fine. But I am all for very stringent punishment under the law itself so that even an acquitting type of judge cannot acquit him easily, because it is a very serious question and it is becoming a menace. But then whether you will be able to do it or whether you will be creating conflicting authorities and in the course of the conflict, whether these gentlemen will escape, that is a very serious problem to be considered. Take the Analysts. You have the State Analysts and the Central Analysts. Even today Central Analysts means what? It means the various Central laboratories which are there in the various parts of the country. It is true that analysis will be conducted at Coonoor or Hyderabad or Anantapur but such institutes will take it up. What is the State analysis? It is the Chemical Examiner who does it. If he feels that a particular analysis has to be done in the Central National Institute because of lack of equipment, he himself refers it to them. He has to send it to them and even a producer has to send it under the law to all these various national laboratories for getting confirmation as to the quality of the drug that he has been processing. Therefore, I cannot understand as to how you are going to administer all these things, the State Analyst, the Central Analyst, the State Inspectors and the Central Inspectors. You will have to be very clear. You will have to say definitely as to whether they will be under the State or under the Centre. The States are the biggest users of drugs for the public health services. The hon. Minister will have to tell us that these conflicting authorities will not be created and that clear-cut jurisdictions will be laid down.

I would like to lay a little more stress on this point at the production level. We were very short so far as this chemical industry was concerned; we are coming up now and the growth has been very rapid in the last few years. How are you going to deal with the question of standards, etc., at the production level? This is very important because the small-scale industries in chemicals do not have their own laboratories, and even where they have some, they are ramshackle ones which are not suitable for our purposes. You should make a clear provision in the rules or better still in the Act itself that such concerns will have to take the help of the State Analysts or the Central Analyst. That will be better; instead of having ramshackle labora-

tories, let them get these things done in the State laboratories and let them pay for it. I think some such thing has to be put in. I do not want the Government to be satisfied with the ramshackle ones that these people put up. Let them be forced to get their products tested by the Chemical Analyst in the capital of the State. Let this be done; otherwise, you can never stop the production of spurious drugs. It is not merely a question of spurious drugs, it is not a question of chloral hydras coming as mag. sul. or starch coming as streptomycin but there is a much more serious question and that is the question of potency. On the label the potency is said to be till 1967 whereas actually you find that the potency is already lost. We must have quality control at the production level. Therefore, I would like the hon. Minister to tell us as to how he is going to ensure quality control at the production level. We have the famous antibiotic factory; we know that proper quality control could not be had there at the production level because of some bungling or whatever it is—I am not going into it at present—but the important point is that it has got to be done. The important point is not only about the spurious character of the drug, but also about the potency of the drug that is produced.

We have got the drug industry in the public sector. We have got the Drugs Control Act under which the Central Government has got certain powers. Obviously, it is the Central Government which is going to administer this Act. The Inspectors will be under the Health Ministry and the Analysts also will be under the Health Ministry. We do not have at the Centre any single institution or Ministry which controls all the public sector industries. We have the Hindustan Aircraft Ltd. under the Defence Ministry, the Hindustan Machine Tool Factory under the Commerce and Industry Ministry and so on. If there is no such sacrosanct rule or *Lakshan rekha* for any particular Ministry to control a public sector undertaking, then it is better that the industry producing drugs in the public sector is controlled by the Health Ministry because this Ministry has got the necessary technical personnel. Quality control at production level will be easier and expansion also will be easier because the Pharmaceutical Enquiry Committee has said that there should be co-ordinated expansion. If you are producing a particular drug in a particular undertaking, whether in the public sector or in the private sector, it has got to be co-ordinated with other undertakings in the field and they have said that Hindustan Antibiotics Ltd. can manufacture anti-malaria drugs because for the manufacture of streptomycin they would be drawing upon certain raw materials. All these things, expansion, co-ordination, etc., have got to be controlled from a health and from a medical point of view and the Health Ministry is concerned with it in the present scheme of things.

Lastly, Sir, I am a little diffident in suggesting the acceptance of the amendment jointly moved by Shrimati Sharda Bhargava and Mr. Santhanam because I do not think that any common organisation can control Unani, Ayurvedic, Homeopathic and Allopathic drugs. The entire system of processing, standardisation, etc., of the allopathic medicines is quite different from the other systems. I do not know whether any standardised processing is there in Unani or Ayurveda. Let them first of all have a standard Indian pharmacopoeia and according to that standard we can judge the drugs. What you do in the case of allopathic drugs is that you copy the British Pharmacopoeia or the U.S. Pharmacopoeia. You must first have your own pharmacopoeia and then only will controls be possible. The reason for excluding Ayurveda and Unani was not political in my opinion; it might be so, but my own opinion is that the very systems are not yet processed and standardised to that extent where control is actually possible. Let them first draw up the Indian pharmacopoeia and then on

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that basis control the drugs. Let us not hasten but let us deal first with these highly potent drugs, which in very minute doses can even kill persons, which are absolutely standardised. Let us have a full-fledged quality control and we can take steps about the other things later on. The first step to be taken is to prepare a standard Indian pharmacopoeia. That is very necessary.

MR. DEPUTY CHAIRMAN: Mr. Deokinandan Narayan, not more than ten minutes. There are four more speakers and the Minister should have some time for reply. We have then to go through the clauses.

श्री देवकीनन्दन नारायण चक्रवर्ती (महाराष्ट्र) : उपसभापति जी, इस विधेयक का उद्देश्य जितना अच्छा है उतना ही कार्यान्वित करने में मुश्किल दिखाई दे रहा है । मुझे यह दिखाई दे रहा है कि आजकल की दुनिया में सिवाय जिन्दगी के सब चीजों की चिन्ता की जाती है । आज जिन्दगी इतनी सस्ती हो गई है कि कोई उसकी परवाह नहीं करता । स्वाभाविक है कि हमारे मंत्री महोदय आहिस्ता कदम चलते हैं, किन्तु आहिस्ता कदम की भी एक मर्यादा होती है । १९३० में सबसे पहले चोपड़ा कमेटी कायम हुई और उसको यह काम सुपुर्द किया गया

> "To enquire the extent to which drugs of impure quality or defective strength were being imported, manufactured or sold in India . . ."

यानी मिलावट-बनावट की इक्वायरी करने का काम सौंपा गया । उसके बाद रिपोर्ट हुई । इस कमेटी की रिपोर्ट के अनुसार जो कानून बना वह दस वर्ष बाद १९४० में बना, यानी जिन्दगी के साथ हम किस तरह से काम ले रहे हैं उसका एक नमूना मैं पेश कर रहा हूं । १९४० में कानून बना । १९४० के बाद सन् १९५३ में यानी १३ वर्ष बाद फिर एक कमेटी मेजर जनरल भाटिया की अध्यक्षता में कायम हुई । वे अपनी रिपोर्ट में यह लिखते हैं :—

> "The problem of spurious drugs has attracted country-wide attention again during the last two years. The menace began during the First World War, when India had to depend for all supplies of drugs on other countries and unscrupulous elements in the drugs trade took advantage of the scarcity of essential drugs like Quinine, and marketed spurious products as genuine ones. This again reached prominence due to scarcity conditions produced during the Second World War. Even after the end of this War, the position has not improved and the spurious drugs trade flourishes to a colossal extent."

१९५४ में जो रिपोर्ट होती है उसमें यह लिखा जाता है कि स्पूरियस ड्रग्स का प्रचार 'कालोसल एक्सटेंट में बढ़ गया है । तो मैं कहना चाहता हूं कि १३ वर्ष के तजुर्बे के बाद तो यह रिपोर्ट हुई और १९५३ के ७ वर्ष बाद हमारे मंत्री महोदय हमारे सामने आते हैं इस बिल को लेकर, इस विधेयक को लेकर, ७ वर्ष यों ही चले गये और यह जो विधेयक है वह भी इतना अधूरा है कि इससे भी स्पूरियस ड्रग्स को कंट्रोल करने में कामयाबी होगी या नहीं यह कहना बहुत मुश्किल है । स्पूरियस ड्रग्स किस तरह से और कहां कहां हिन्दुस्तान में बनते हैं । इसे आप देखियेगा । आप पकड़ नहीं सकते हैं, आपने यहां बड़ी बड़ी बातें कहीं लेकिन ये ड्रग्स घर घर में बनते हैं । जगह बदलते रहते हैं, कंटेन्टर्स बदलते हैं, वाटेल्स बदलते हैं, नाम बदलते हैं, लेबिल्स बदलते हैं, न जाने कितने ढंग से स्पूरियस ड्रग्स पैदा होते हैं । आप उनको पकड़ नहीं

सकते। वह बनता है एक जगह, लेबिल लगता है दूसरी जगह, कंटेनर में भरा जाता है तीसरी जगह और उसको बेचते हैं चौथी जगह। मैंने एक जगह पढ़ा, "They are all walking Chemists." वे "walking Chemists" हैं। ऐसी हालत में आपके विधेयक का जो उद्देश्य है वह बहुत ठीक है, सुन्दर, है लेकिन, मुझे डर है कि इस उद्देश्य को पूरा करने में आप कहां तक कामयाब होंगे।

दूसरी बात यह है कि मुझे इंस्पेक्टर्स के बारे में जहां तक जितनी मालूमात हैं उसकी वजह से मैं इंस्पेक्टर के नाम से ही बहुत डरता हूं क्योंकि मेरे सामने फैक्ट्री इंस्पेक्टर आ खड़ा होता है, बाईलर इंस्पेक्टर आ खड़ा होता है और एक्साईज इंस्पेक्टर याद आता है! जब वह तीन इंस्पेक्टर आ जाते हैं तब एक और चौथे इंस्पेक्टर को देख कर डर होता है कि कहीं यह इंस्पेक्टर भी उन्हीं का अनुयायी न बन जाय जैसे बाईलर इंस्पेक्टर और फैक्ट्री इंस्पेक्टर होते है।

श्री पां० ना० राजभोज (महाराष्ट्र): सेल्सटैक्स इंस्पेक्टर भी है।

श्री देवकीनन्दन नारायण चक्रवर्ती: जी हां, सेल्सटैक्स इंस्पेक्टर भी है। बहुत से इंस्पेक्टर पैदा हो रहे हैं। इस लिऐ मुझे मंत्री महोदय से प्रार्थना करनी है कि वह यह देखें कि ये जो इंस्पेक्टर्स नियुक्त होंगे वे सचाई और प्रामाणिकता से काम करें।

फिर, आपने इसमें से आयुर्वेद और यूनानी को निकाल कर दिया है। आज सब से ज्यादा स्यूरियस यानी नकली काम, मिलावट, बनावट, यदि कहीं होती है तो वह आयुर्वेद की मेडिसिस में होती है क्योंकि उसकी खपत-बिक्री बहुत ज्यादा है।

ڈاکٹر راج بہادر گوڑ : یہ کانگریس کی پالیٹیکس میں ہوتا ہے -

†[**डा० राज बहादुर गौड़**: यह कांग्रेस की पालिटिक्स में होता है।]

श्री देवकीनन्दन नारायण चक्रवर्ती: नहीं, वह तो आपकी पालिटिक्स में होता है; क्योंकि उसमें तो दूसरी कोई बात ही नहीं है सिवाय स्यूरियस के। तो उसकी याद आपको आती रहती है। तो मुझे कहना है कि आपने आयुर्वेद और यूनानी को इसमें से निकाल कर के एक चीज को वहां से रोकने का रास्ता ही बन्द कर दिया है। मुझे पता है, मेरे जिले में कई फार्मेसीज हैं।

श्री डी० पी० करमरकर: आपके जिले में?

श्री देवकीनन्दन नारायण चक्रवर्ती: जी हां, मेरे जिले में और आपके जिले में भी हैं जहां स्यूरियस ड्रग्स चलते रहते हैं। "शंख भस्म" शंख को पीस कर वया बना दिया जाता है। तो इस तरह से जिन्दगी के साथ खेला जाता है और वह किस लिये? पैसे के लिये या मुनाफा के लिये या और किसी मतलब के लिये। तो जब यह हालत है तब इस तरह से धीमी चाल से, आहिस्ता कदम से, नर्मी से चल कर काम नहीं चलेगा। मुझे यह कहना है कि आप इससे कुछ ज्यादा कड़ाई से काम लीजिये, कुछ अधिक जोरदार कदम से आगे बढ़िये। मैं तो कहूंगा कि यदि कोई ऐसी चीज है जिसका व्यापार, जिसका पैदा करना, सरकार अपने हाथ में ले सकती है तो सब से पहले दवाओं को बनाने का काम सरकार को अपने हाथ में लेना चाहिये और दवाओं का किसी और के द्वारा बनाना बन्द हो जाना चाहिये।

The production and manufacture of medicines by private agencies must be stopped. That should be in the public sector.

†[ ] Hindi translation.

[श्री देवकीनन्दन नारायण चक्रवर्ती]

क्योंकि इसका नतीजा यह होगा कि हमें शुद्ध दवायें मिलने लगेंगी । बिक्री का काम आप औरों को सौंप सकते हैं मगर प्रोडक्शन और मैनुफैक्चर का काम हिन्दुस्तान की आज की हालत में जब कि कोई भी चीज अनएडल्टरेटेड नहीं मिलती है तब इस तरह से प्राइवेट सेक्टर में और प्राइवेट लोगों के हाथ में रखना मेरे खयाल में खतरनाक है और ऐसा करना ठीक नहीं है ।

इसके बाद, इसमें सेक्शन २० और २१ हैं । यह कहा गया और शिकायत की गई कि सेंट्रल गवर्नमेंट का कंट्रोल रहेगा और प्रान्तिक गवर्नमेंट का भी रहेगा, परन्तु इसमें डरने की कोई बात नहीं है । इसमें ओवरलैपिंग होने का भी कोई कारण नहीं है क्योंकि इसमें एक बहुत अच्छी बात लिखी हुई है और वह यह है

"In respect of such drugs or class of drugs as may be specified in the notification."

यानी ड्रग्स का बटवारा हो सकता है । सेंट्रल इंस्पेक्टर को या सेंट्रल एनालिस्ट को आप कुछ खास ड्रग्स की देखभाल दे सकते हैं । इनको कुछ खास ड्रग्स का एनालिसिस या इंस्पेक्शन दे सकते हैं और दूसरी बहुत सी ड्रग्स का काम स्टेट्स के इंस्पेक्टर्स को या औरों को दिया जा सकता है ।

ڈاکٹر راج بہادر گوڑ : یہ زیادہ خطرناک ہے ۔

†[डा० राज बहादुर गौड़ : यह ज्यादा खतरनाक है ।]

श्री देवकीनन्दन नारायण चक्रवर्ती: खतरनाक तो बहुत सी बातें हैं क्योंकि इंसान ही खतरनाक है ।

इसके बाद जो सेक्शन २१ (३) है उसमें यह है :

"No person who has any financial interest in the manufacture, import or sale of drugs shall be appointed to be an Inspector under this section."

यहां मैं यह चाहूंगा--क्योंकि हर एक कानून में कई जगह मैंने यह देखा है—

There should be no direct or indirect financial interest.

यानी किसी तरह का प्रत्यक्ष-अप्रत्यक्ष इंटरेस्ट नहीं होना चाहिये ; क्योंकि आज होता यह है कि व्यापार मैं करता हूं और नाम होता है घर की बीबी का । प्रोडक्शन मैं करता हूं या मैन्युफैक्चर मैं करता हूं और लेबिल लगता है मेरे भाई का । यानी इस तरह से चारों तरफ से हम दुनिया को धोखा देते हैं । ऐसी हालत में इसको इतना गोल मोल नहीं रखना चाहिये और इसको "डाइरेक्ट और इनडाइरेक्ट" बना देना चाहिये ताकि डाइरेक्ट और इनडाइरेक्ट में हर कोई आ सकें ।

इसके बाद मुझे यह कहना है कि बहुतों ने आपत्ति यह की कि यहां पनिशमेंट बहुत ज्यादा रखा गया है । आप कम से कम एक साल की सजा रखना चाहते हैं जो कि मेरे खयाल से कम है । जो जिंदगी के साथ खेल करना चाहता है और दूसरे की जिंदगी को बिगाड़ कर के, बर्बाद कर के, पैसा पैदा करना चाहता है उसको ज्यादा से ज्यादा सजा होनी चाहिये बनिस्बत उसके कि जो चोर है ।

श्री शीलभद्र याजी : फांसी दे दीजिये ।

श्री देवकीनन्दन नारायण चक्रवर्ती : क्योंकि पैसे के लिये दूसरे की जान से खेल खेलना यह कहां तक ठीक होगा, वह आप सोचिये । जहां दया दिखलानी

†[ ] Hindi transliteration.

चाहिये, जहां उदारता दिखलानी चाहिये, वहां तो आप दया और उदारता दिखलाते नहीं हैं और जो सब से बड़ा बदतर, गुनाह कर रहे हैं और गांव-गांव तथा शहर-शहर में फैला रहे हैं उनको आप दया दिखलाना चाहते हैं और सजा कम देना चाहते हैं । इसलिये मैं यह कहूंगा कि यह सजा और भी बढ़ाई जाये और कम न की जाये ।

आखिरी बात यह है कि मेरी बहन ने जो तजवीज (अमेंडमेंट) पेश की है वह मंजूर होनी चाहिये । इस विधेयक से जो यूनानी, आयुर्वेद और होम्योपैथी को अलग कर दिया गया है यह ठीक नहीं है । जैसा कि मैंने थोड़ी देर पहले कहा कि हिन्दुस्तान की ज्यादा से ज्यादा जनता और खास करके ग्रामीण भाई, देहात के भाई आयुर्वेद से और यूनानी से ही काम लेते हैं और उन दवाओं में ज्यादा से ज्यादा बनावट, मिलावट और नकल होती है । तो उन दवाओं को यदि इसमें से आप निकाल देंगे और उनके ऊपर कोई नियंत्रण नहीं रखेंगे तो दुनिया को नुकसान पहुंचेगा और इस विधेयक से जो फायदा आप दुनिया को पहुंचाना चाहते हैं वह कभी नहीं पहुंचा सकेंगे । इसलिये मेरी प्रार्थना है कि आप आयुर्वेद, यूनानी, होम्योपैथी और जितनी भी औषधियों की प्रथायें हैं उनको इसमें शामिल कर दें ।

SHRI K. SANTHANAM: It is to bring the Ayurvedic medicines under the control system that the amendment has been given.

SHRI DEOKINANDAN NARAYAN: I am supporting you.

SHRI MAHESH SARAN (Bihar): Mr. Deputy Chairman, Sir, I was really surprised to hear the speech of my learned friend, Mr. Sapru. He was very anxious that the judiciary should have unfettered powers to carry on things as they like. I quite agree that it should be so. But he should also consider what would be the effect if the judiciary had the right in such cases not to give minimum punishment. This is such a serious matter that the punishment should be as severe as possible. It is playing with the lives of the people. So, when it is said that one year's imprisonment is to be given, I think it is not too much but it is too little. I have only to point out that so far as the penalty in the third case is concerned, the clause says:—

3 P.M.

"Whoever, having been convicted of an offence—

(a) under clause (a) of section 27 is again convicted of an offence under that clause, shall be punishable with imprisonment for a term which shall not be less than two years but which may extend to five years and shall also be liable to fine:".

Then, again, it says:—

"(b) under clause (b) of section 27, is again convicted of an offence under that clause shall be punishable with imprisonment for a term which may extend to five years, or with fine or with both.".

I do not know why in this case there is no minimum punishment. I am afraid this is a serious omission. For the second offence the term of imprisonment should certainly be more than two years.

Now, Sir, so far as the Unani and Ayurvedic medicines are concerned, we know that the majority of people are using them and the chances of adulteration in these cases are more. We are trying to protect the lives of

[Shri Mahesh Saran.]

people, to make their life more safe. I fail to understand why then this branch is excluded. This is the one branch which should be more carefully looked after. My hon. friend, Shri Sapru, may not believe in these systems, but the only people who are benefited by allopathy are the rich people. The poor cannot just afford it. One injection costs so much money and the poor people in the villages, the labourers and others cannot afford to have the medicine. The only thing that they can do is to resort to the Unani and Ayurvedic medicines. Therefore, more attention has to be paid to this aspect of the question. It should be seen that these medicines are really genuine and good medicines. Therefore, less attention has to be paid to those drugs which are, in a way, very much in advance, and more attention has to be paid to the Ayurvedic and Unani medicines which are being resorted to by the majority of the people of the country. I think it is necessary, therefore, that if not now, at least later, some legislation should be made which would look after this aspect of the question, because the real charge against the Government is that the poor people are left uncared for and only the rich people are looked after.

Now, Sir, there is another point which somehow or other does not very much appeal to me. You are going to appoint two Analysts, one by the Centre and the other by the State Government. Suppose these two Analysts give different reports; what will happen? There will be complications and it will not be a proper thing to do. I would like the hon. Minister to explain how this is going to be solved.

There is another thing which requires a little consideration. We have seen adulteration of drugs, etc., but what about the compounding of medicines? This also should attract the attention of the Minister. Now, there is a lot of confusion and prescriptions are wrongly compounded by the compounders. Therefore, attention must also be directed to seeing that the prescriptions are properly dispensed. My submission is that there should be licensing of compounders and proper attention has to be given to this aspect of the question, so that we might get the medicines properly compounded. Thank you.

SHRI SONUSING DHANSING PATIL: Mr. Deputy Chairman, the evil of spurious drugs is too well known to need any special mention in this hon. House, I should have expected that the hon. Minister-in-charge of the Bill would have brought forward a very comprehensive Bill for the reasons which my friend, Shri Deokinandan Narayan, gave in his speech earlier. After about twenty years the Bill only seeks to make certain enabling provisions. Beyond that purpose the Bill does not go. We have to stop the evil and we have to stop the greedy tendency of those persons who go in the name of walking chemists or those manufacturers who make lots of money out of these spurious drugs at the cost of the life of the people. The present Bill is very limited in its scope. It does not touch the definition of 'drug'. Had that been under the consideration of the House, we would have naturally taken into consideration the useful suggestions made by the hon. Members, Shrimati Sharda Bhargava and Shri Santhanam, so as to include in its scope some of the other systems of medicine, indigenous and others, and we could have brought within its pale those drugs which are essential for several '*Asavas*' but which are consumed for purposes which are prohibited by other laws, particularly the prohibition law. Since the definition of 'drug' is not under consideration by the House, the question which comes up is this. Clause 4 is objected to by two eminent Members, one is a very sound 'finance man' and the other is an eminent jurist. One objects to it on the ground that there is bureaucratic expansion, duplication of arrangement which may lead to

confusion and which will increase the cost of appointing these persons. If these provisions are looked into carefully, then we get an inkling into the salutary aspect of the provisions, that It is a provision for enabling the Central Government to appoint its own inspectors as well as Analysts, besides those who are already to be appointed by the respective States. So, there is no conflict of jurisdiction. Neither is there any sort of wasteful expenditure on that score. As far as the Government Analysts are concerned, their two jurisdictions are separately given. Clause 4 says:

> "20. (1) The State Government may, by notification in the Official Gazette, appoint such persons as it thinks fit, having the prescribed qualifications, to be Government Analysts for such areas in the State and in respect of such drugs or class of drugs as may be specified in the notification.".

It further says:

> "(2) The Central Government may also, by notification in the Official Gazette, appoint such persons as it thinks fit, having the prescribed qualifications, to be Government Analysts in respect of such drugs or class of drugs as may be specified in the notification.".

Here the word "areas" is dropped. So, there is less fear of concurrent jurisdiction or conflict jurisdiction or conflict arising.

SHRI K. SANTHANAM: But the drug is there.

SHRI SONUSING DHANSING PATIL: The drugs are qualified as specified in the notification. The notification comes in section 21, read with section 33, which is also being amended by clause 10. It prescribes the powers and duties of Inspectors. It reads:

> "(2) The powers which may be exercised by an Inspector and the duties which may be performed by him, the areas in which the drugs or class of drugs in relation to which and the conditions, limitations or restrictions . . ."

So, it is not a sort of blanket power that is being taken over. It is qualified by certain salutary provisions. Now, the question is whether the punishment that is provided for is in any way a sort of slur or which deprives the judiciary of its legitimate power of giving punishment according to reason or according to the material or evidence before them. Here in the interests of social security, in the interests of the health of the general public, I think Parliament, which is the supreme body, can legislate for the whole country and they can even put some reasonable restriction on the powers of the judiciary because there is a likelihood that even when the persons are convicted, there is a sort of lurking sympathy either on the part of the general public or there are certain considerations by which members of the judiciary might also feel that a lenient view can be taken. When the offence involved needs a deterrent punishment of those persons who make a lot of profit out of the sale of spurious drugs or manufactures, of those persons who resort to these anti-social activities, it is but essential that we must provide for such a deterrent punishment. Otherwise what is the purpose of punitive legislation? A certain minimum punishment must be given so that the courts are bound to that extent at least to award that minimum punishment. In this particular case the provision for minimum punishment is there even though it is qualified by a proviso:

> "Provided that the Court may, for any special reasons to be recorded in writing, impose a sentence of imprisonment of less than one year."

Whenever a Court awards a punishment, it does not necessarily, as my experience as a lawyer goes, give the reasons. But if a lesser punishment

[Shri Sonusing Dhansing Patil.]

is to be given, then the special reasons are to be recorded in writing for imposing such a sentence. Here is justice tempered with mercy. If a particular offence does not involve a serious thing or the element of seriousness is very limited—may be for technical reasons, there may be a breach of condition—if such a sort of offence is before the Court, the Court's hands should not be tied down by a rigid provision. There is nothing inconsistent or wrong in it, and I would, with due deference to Mr. Sapru's view, beg to differ from him and say that the punishment provided by this particular clause 7 is very salutary, and it will check the evil by the deterrent punishment. Again, if the same offence is repeated and if the offence happens to be of a serious nature which really involves some danger to the life of the community, naturally such an offence should not be treated lightly. There must be some sort of a graded punishment, and these punishments are provided. I will endorse Shri Deokinandan Narayan's view that as far the drugs are concerned, particularly those which involve some sort of research and quality production, Government has given a good lead in this matter. I have read the report of the Hindusthan Antibiotics, Poona. The sales are very encouraging and they are now selling drugs to the tune of Rs. 3 crores 27 lakhs which they are turning out from the factory. With regard to quality control, the very good offices of the Drug Controller of India are utilised from time to time. It shows the commendable work that the Government has done, and it gives us sufficient guarantee that if this particular production or manufacture is taken up by Government in the public sector, it will serve the interests of the community best and the large amount that will be expended will be expended in the interests of the community.

With these remarks I conclude my speech

SHRI AKBAR ALI KHAN: Mr. Deputy Chairman, I am with my friends who have observed that the matter has been delayed, and when it has been taken up, it has not been taken up with the anxiety or the attention which this serious problem deserves. Sir, so far as the constitutional point of concurrent powers is concerned, there is no difficulty. The power is there. Now, in a matter which affects all the States and where one State manufactures and sends it to the other States and something is done in the former State, it is always in the interest of the object which is before us that the Centre takes greater interest and gets greater power and grip over the matter.

DR. R. B. GOUR: That means, you are transferring it to the Concurrent List.

SHRI AKBAR ALI KHAN: When it is in the Concurrent List, it means that both the Centre and the States have power, and it is agreed that it is in the Concurrent List. In matters of health and in matters of such importance where all of us agree that the disease is very deep and requires a very thorough surgery, all aspects of it should be gone into very carefully. I am not against giving power and authority to the Centre.

The second point which I would deal with is regarding the amendments of my hon. friends, Shrimati Bhargava and Shri Santhanam in connection with this Bill. Sir, you look into the first Drugs Act, you consider the Chopra Committee report, you consider Major General Bhatia's report. They have made certain observations, but they were mainly concerned with allopathic medicines. The injury or the damage that is being done by either Ayurvedic or Unani or Homoeopathic medicines may be very great. I do not deny that. But I think a special Committee should be appointed, and they should go into the matter thoroughly. Of course, there are good practitioners in every system of medicine. So,

after going into the matter exhaustively he may certainly bring a Bill. I would commend the matter for the consideration of the Health Minister.

SHRI J. S. BISHT: It will take twenty years.

SHRI AKBAR ALI KHAN: Whatever it may be, I do not believe in putting things absolutely unconnected with one another. We would expect the Health Minister to take it up and bring forward a Bill as early as possible.

DR. R. B. GOUR: This Bill has come after one Health Minister has gone out . . .

SHRI AKBAR ALI KHAN: Again Dr. Gour is a technical man so far as this subject is concerned, he can speak better. Although he has forgotten his medicine, he is still better qualified to speak than I am. I am really sorry that some of the doctors who were here in the last session and who really used to make their contributions on such matters are not here now. So, we welcome your suggestions and welcome your interruptions.

. . . . .

Coming to the Bill itself, I think much has been said by different friends, but one thing I would emphasize is this. So far as the two matters are concerned, one a little more authority for the Centre and the other an increase in punishment, they are the least that could be done. I do not think that anybody opposes it. Regarding the increase of punishment, there has been some misunderstanding so far as the observation of my friend, Mr. Sapru, is concerned. He did not say that this matter did not require very strict dealing. He said that in such matters we should have data, a little material, before we pass the Bill. But I do think that the punishment of one year as the minimum and of up to three years in case of repetition is absolutely necessary, and I do hope that this Bill after it becomes law will be implemented with all possible strictness in all parts of India. Sir, we all know what damage is done to our people by these adulterated and sub-standard medicines.

SHRI P. N. SAPRU: Sir, one interruption. What I said was that no material had been placed before us to indicate that a change in the law was called for. I think I did not say that it should not be dealt with severely, but what I said was that material should have been placed before us to justify a change in the ordinary law of the land.

SHRI AKBAR ALI KHAN: We all know what great damage is caused to the public. I know that penicillin ampoules have been sold with distilled water in it. Many other such instances could be quoted and multiplied.

DR. R. B. GOUR: How is that possible? It is powder.

SHRI AKBAR ALI KHAN: What I say is that this matter really deserves consideration. I would request the Health Minister to look into this matter and see that our people are saved from these adulterated medicines.

श्री पां० ना० राजभोज : क्या माननीय मंत्री जो यह बतलाने की कृपा करेंगे कि कौन कौन से द्रव्य सव और टिंचर हैं जो कि शराब के काम में आ रहे हैं ?

SHRI D. P. KARMARKAR: शायद आपकी इसकी जानकारी ज्यादा होगी ।

Mr. Deputy Chairman, I have listened with very great interest to the debate, and I am happy to see that the Bill has been justified in substance to the fullest measure. So far as I have been able to gather, the House is very anxious that as early as possible, efficient steps should be taken to see to it that the drugs produced and distributed in the country

[Shri D. P. Karmarkar.]

are good for the people. Then there was also a consensus of opinion that at some level or the other, the implementing agency should be a very efficient one and that it should be endowed with the powers that are sought, in order to implement this policy. Then thirdly, there was also a consensus of opinion, so far as I could see, that the offenders in this respect should receive very deterrent punishment because whatever misdoings they do go to the root of the health of the people. And then, of course, in expressing these views, hon. Members have been so divided that half of them have met the arguments of the other half very effectively. And sometimes, an esteemed colleague like Shri Santhanam who was for the exclusion of Homoeopathy has agreed in signing an amendment for including not only Homoeopathy but also Ayurved and Unani. That is very refreshing. I hope I am right.

SHRI K. SANTHANAM: I wanted the hon. Minister to be a little logical. That is all.

SHRI D. P. KARMARKAR: That is all I have to say and Shri Santhanam, between the period that I had the privilege of meeting him last time and this time, as learnt to be more logical than practical. What I wanted to convey was that different views had been expressed and I would like to share with the House the views of the Government in the matter.

One thing the House seems to have missed. My hon. friend, Shri Sinha's method of emphatic delivery of his speech from the place where he is sitting now I admire very much, but if I might say, I was disappointed with the substance of his observations, because as I listened to him, I thought of some learned advocate pleading the cause of the State Governments against the Central Government before a court of law. Ultimately, every one knows the position and therefore, I need not dilate on the point as to what Concurrent List means. There are certain subjects exclusively for the States; there are certain subjects which are exclusively for the Centre and there are certain subjects which are left for concurrent legislation. The meaning is very obvious. And in this particular matter, as soon as the Pharmaceutical Enquiry Committee's Report was out, we took care to consult the opinion of the States as to what their view was. Opinions in such matters are not always unanimous. Then again there was the Estimates Committee of Parliament which went through this matter, it went a little in detail into this vexed problem of the drugs. For instance, with regard to the drug inspectorates in the States, they said—

> "The Committee view with great concern the continued existence of spurious and adulterated drugs in the market due to the ineffective operation of the Drugs Act and the Rules in the country and recommend that all remedial measures, including the strengthening of the State Drug Inspectorates, should be taken by Government to check this evil . . ." etc.

In regard to the punishment for the violation of the Drugs Act, they said—

> "The Committee felt that adequate provision should be made to enable Government to take drastic measures against those responsible for manufacture and sale of sub-standard drugs. The Committee, therefore, recommend that minimum deterrent punishment should be prescribed for the infringement of the Drugs Act and Rules."

Then they go on further about the centralisation of drug control. Ultimately, the Estimates Committee of Parliament, as we all know, is a very responsible Committee. They say—

"In view of the criticisms made against the Durgs Act, the representative of the Ministry was asked to state whether it would be desirable to centralise the control over the manufacture of drugs which at present vests in the State Governments under the provisions of the Drugs Act, as recommended by the Pharmaceutical Enquiry Committee. He stated that the matter of the central operation of the Drugs Act had been considered by the Government of India and it was decided not to interfere with the powers of the State Governments . . ."

Therefore, that shows Mr. Sinha's anxiety not to disturb the State Governments unnecessarily though we have not said so in such an oratorical language as he has.

"He, however, added that the Ministry was again reconsidering the matter. In this connection, the Committee understand that the Central Council of Health . . ."

which consists of all the Ministers of Health in the States

" . . . in their third meeting held at Trivandrum in 1955, have passed the following resolution:—

'The Central Council of Health accepts the proposal to bring the production of drugs and pharmaceuticals under the control of the Central Government . .

My hon. friend spoke as if the State Governments kept quiet, and here it is that the Ministers of the respective States in charge of health, who are expected to know their charge better than anyone else . . .

SHRI RAJENDRA PRATAP SINHA (Bihar): Congress Ministers . . .

SHRI D. P. KARMARKAR: No. virtue is a monopoly of any particular organisation or party.

They go on—

' . . . and recommends that the Drugs Act may be amended accordingly . . .

The very States for whom he was seeking to plead have given away his own case.

' . . . The Concil further recommends that the Government of India shall take immediate steps to pass the amended Drugs Act in the Lok Sabha.' "

This is what the State Health Ministers have said in that Council. Now, in pursuance of that and after considering the whole matter we thought firstly that the Centre should step in; secondly that the Centre should not step in in substitution of the States. And ultimately the Central Government and the State Governments are not at loggerheads. All of us are agreed and are unanimous about the matter in so far as the control and penalisation of the spurious and undesirable drugs are concerned. Our objective is one. Maybe, some States may have succeeded better than others. But in view of this consensus of opinion, we have thought it fit firstly to come on the scene ourselves and secondly not to impinge upon or trespass the powers of the State Governments. Ultimately, my hon. friend there does not appear to appreciate how we function. Whether in the Central Government or in the State Governments, we do not work at loggerheads; we work in co-operation, we work in harmony. And we in the Central Government realise that if any good has to be done to the country in any field, it can only be by functioning through the State Governments. It is not that we cannot co-operate or in a mandatory manner order either the States or the people round about. That seems to be my hon. friend, Shri Sinha's conception. That is not my conception; that is not the conception of the Centre. In any step that has to be taken, it has to be with the fullest co-operation of the State Governments. We do not sit down to quarrel; we sit down to work a much

[Shri D. P. Karmarkar.]

more serious job. Therefore, in trying to harmonise our own discussions, we shall see to it that we do not quarrel. Ultimately, what does it mean? It does mean that there are so many things that can be worked in a very harmonious manner. Take for instance our Inspectors. Under this Act, it is conceivable that in an area where the State Government is functioning in an efficient manner, their Inspector may be our Inspector. Powers are given to them. Their laboratory may be our laboratory; their officer may be our officer. Just at the present moment, though the Drug Controller of the Government of India—even in such a matter as the one in regard to penicillin which came up before this House—has no right in Bombay, the Bombay Drug Controller acted in full co-operation with the wishes of this House and with the wishes of the Government of India and thought that the matter should be gone into thoroughly. I had no powers; my Drug Controller had no powers to step into Pimpri, but the Drug Controller of Bombay fully realised the importance of the subject and co-operated. It is thus in co-operation that we work and therefore I do not visualise any conflict at all between the Central Government machinery and the State Government machinery. Ultimately the resultant should be that at some time or the other, the legislation may be wholly Central. But the delegation to the State Government should be complete. That would be ideal shape of our things to come. That should be achieved. In order to help the States in the Third Five Year Plan, we are contemplating a proposal to keep at their disposal something like Rs. 1·5 crores to see to it that standardisation and control are done in the best manner possible, and therefore this idea of a conflict is nowhere in our contemplation nor in the contemplation of the State Governments.

My friend, Shri Santhanam, said something. I must say that he has been fully logical. Now, he has been supported also by my esteemed colleague, Shrimati Sharda Bhargava. I am happy that there has been expressed a general agreement with the position that all the drugs should be brought under control. Had not some propriety come in the way, I would have straightway accepted their amendment. I fully agree and sympathise with the demand that all the drugs should be brought under control. But there again there is propriety. We are moving in the field of concurrent legislation and therefore we must have the opinions of the State Governments, how they feel, because ultimately success depends upon how they feel and how they are going to act. Supposing all the State Governments take an erratic position, we do not immediately go at them and say, " You must do like this." We try to persuade them. Therefore, not now, not after this Bill came for consideration here, but about six weeks back we had circularised the State Governments asking for their opinion on the question whether the time is not ripe when all the drugs should be brought under legislative control.

I am not quite sure but my friend, Shri Deokinandan, speaks from superior knowledge and he seems to be knowing many places where spurious drugs are produced. He seems to be knowing it in his own district and he gave the place of honour to his own district of which, he, of course, has better knowledge. Now I am not aware and so I am not prepared to indict the Ayurvedic practitioners much more than the modern medicine manufacturers. Human nature being the same, the bad and anti-social elements are spread over all walks of life all over the country, impartially, and I am not prepared to agree with him that Ayurvedic medicine manufacturers are producing more spurious drugs than the modern medicine manufacturers.

SHRI DEOKINANDAN NARAYAN: They are much greater. Their scope is far greater and more extensive

than that of the allopathic medicine manufacturers.

SHRI D. P. KARMARKAR: I am not quite sure of that but I am quite sure of the efficacy of some Ayurvedic medicines.

SHRI DEOKINANDAN NARAYAN: Spurious Ayurvedic medicines are sold a hundred times more than the spurious allopathic medicines.

SHRI D. P. KARMARKAR: Sir, it is very difficult to argue with him as to statistics. Whether it is only a hundred times or something else, I am not quite sure. Nor can I take my friend to be accurate in the statistics that he gives of spurious drugs in the allopathic and Ayurvedic systems of medicine.

SHRI DEOKINANDAN NARAYAN: You will know that in the markets in abundance.

SHRI D. P. KARMARKAR: Statistics do not come into the market. For statistics I go to my staff and perhaps my friend goes to the market. He can have his statistics collected in that manner; he is at liberty to do whatever he likes. He may ask his market-man or woman as to what the extent of the sale of spurious Ayurvedic drugs is.

Then I must meet the very powerful argument put forward by Mr. Sapru asking for materials. Now, Sir, the material at our disposal shows that, taking all the prosecutions together—I have got figures with me for 1958 and 1959; it is for all types of prosecutions—out of 274 prosecutions there were 178 convictions and out of that only 24 were with imprisonment. Now, taking only the more serious offences connected with spurious drugs we find that during the years 1958-1959 and 1959-1960 there were 74 prosecutions launched in all the States for the manufacture and sale of spurious drugs. Of the 74 prosecutions 30 resulted in convictions and of the 30 convictions in only 13 cases imprisonment was awarded and in most of these cases the sentence was four months or less of rigorous imprisonment and only in two cases there was rigorous imprisonment of one year. In the case of fines the fines ranged from Rs. 50 to Rs. 1,000. Now, that is really the reason why we have said that when there is a conviction under this law, the minimum sentence should be one year. Ultimately not even that sentence can act as a deterrent for some people, those whom we are able to trap. We are not able to trap all. The people are cleverer than the law sometimes. But even among those trapped; if it is a question of fine only, irrespective of the fine, they are prepared to pay the fine. They may be paying the fine or somebody else may be paying the fine. Therefore, it is that we have placed a minimum imprisonment of one year for the first offence and a minimum of two years for repeat offences. I am quite sure that the House, holding strong views that it does, will agree with Government in prescribing this minimum.

Now, Sir, these are really the important points. I am grateful to my friend, Mr. Bisht, who drew the attention of the House to an important paragraph in the Report which was read partly by my friend, Mr. Sinha. The paragraph which did not serve him he did not read. Now, I entirely agree with Mr. Bisht when he said that the machinery for implementation should be really very good.

My friend, Dr. Raj Bahadur Gour, well, he tried to make certain points, but unlike his private conversations his performance this afternoon was not as lucid as it might have been or as sufficient for me to comprehend. But one point I have noted down here. I was not quite sure whether he was for giving discretion to the State Governments or whether he was not. I was not quite sure whether he wanted swere punishment or lenient punishment.

DR. R. B. GOUR: I do not think that even in matters of understand-

[Dr. R. B. Gour.]

ing he should be briefed by his secretariat.

SHRI D. P. KARMARKAR: I think I also said that I did not understand him.

DR. R. B. GOUR: The point is this I am for strict punishment. About the administrative jurisdiction that you wanted I wanted more material as to why the States have failed in meeting the requirements of the Drugs Act. Obviously, the States have failed, and I wanted him to take up this matter.

SHRI D. P. KARMARKAR: Yes, I appreciate that and I am not at difference with him so far as the facts are concerned. Some States have failed and he wants me to collect information as to why they have failed. When I get the information, I hope to enlighten him.

DR. R. B. GOUR: They must have told you at Shillong.

SHRI D. P. KARMARKAR: My friend Shri Deokinandan criticised the delay about it. He started from long back when many of us were in jail in 1930 and then in 1940, and I am quite sure that he would not place the responsibility from 1930 to 1960 on my poor shoulders. After all these things have to proceed and they take their own turn and the present Government as also this House is very serious in their effort to check these malpractices and I am quite sure that this Bill, when passed into law, will by its operation have a salutary effect, and the minimum sentence of a year's imprisonment will have its own effect. I entirely appreciate the suggestion that he made about nationalising the drug industry, and if and when we come to undertake the task and when my friend, Shri Nityanand Kanungo, pilots another Bill for nationalisation, I do hope that Shri Deokinandan Narayan will be raising the question of cottage industries—I am not quite sure of that.

But I appreciate what my friend, Mr. Akbar Ali Khan, said, namely that the Centre should get greater powers. It is not precisely a question of power; it is a question of effective handling, and I must say in conclusion that I appreciate very much the support that the House has been pleased to give to this measure, especially the point made by my esteemed colleague, Mr. Santhanam, and many of my other friends, that it is not only drugs of a particular type that should be controlled but that all drugs should be brought under control, and I shall place this point of view before the next meeting of the Central Council of Health, which we are having in about two month's time and I hope to be able to introduce as early as possible a Bill which will seek to control all types of drug manufactures, because I am entirely at one with the idea so logically put by Mr. Santhanam that we cannot control drugs under one system of medicine to the exclusion of others. I hope, Sir, I have covered all points though it is physically impossible to touch on every aspect.

श्री पां० ना० राजभोज : आप मेरा जवाब दीजिये मंत्री महोदय जी ।

श्री डी० पी० करमरकर : आपका जवाब?

श्री पां० ना० राजभोज : आप जानते हैं कि मेरा क्या सवाल है ।

SHRI D. P. KARMARKAR: I am very sorry I have not the time available with me to give a reply. Also his observations, I am sorry to say, were absolutely irrelevant to the provisions of this Bill.

श्री पां० ना० राजभोज : मेरा बहुत सिम्पल सवाल है । कौन कौन से अरिष्ट आसव और टिंचर शराब की तरह काम में आते हैं ? मैं इसको ही पूछ रहा हूं क्यों कि कई प्रांतों में इनका बहुत इस्तेमाल होता है । इसका जवाब आप दीजिये ।

DR. R. B. GOUR: Please do not give that information.

SHRI D. P. KARMARKAR: The information may be with him but the observations that he made, Sir, were irrelevant for the purpose of this Bill, but shall I gently tell him, Sir, that it is not my purpose to confirm what he says though I might have the knowledge as to which *Arishtas* or *Asavas* have the effect of intoxicants? If he wants that information seriously, he has to seek it elsewhere and not from the Health Minister.

MR. DEPUTY CHAIRMAN: The question is:

"That the Bill further to amend the Drugs Act, 1940, be taken into consideration."

The motion was adopted.

MR. DEPUTY CHAIRMAN: We shall now take up the clause by clause consideration of the Bill.

Clause 2 (*Amendment of section* 3)

MR. DEPUTY CHAIRMAN: In view of the assurance given by the Minister, are you going to move your amendment, Mr. Santhanam? He said he was going to bring another Bill.

SHRI K. SANTHANAM: I leave it to my lady colleague, the co-sponsor.

SHRIMATI SHARDA BHARGAVA: I am not moving it, Sir, but I would like to know from the Minister how much time approximately he will take to bring forward this kind of legislation for the other kinds of drugs.

SHRI D. P. KARMARKAR: Like Mr. Santhanam I shall be guided by Mrs. Sharda Bhargava at the relevant time and I shall hold consultations with her. It depends on the State Governments, but I shall be guided by my friend . . .

SHRIMATI SHARDA BHARGAVA: Approximate time.

SHRI D. P. KARMARKAR: I cannot commit myself but it is not earlier than six months.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 2 stand part of the Bill."

The motion was adopted

Clause 2 was added to the Bill.

Clause 3 was added to the Bill.

Clause 4 (*Substitution of new sections for sections* 20 *and* 21)

SHRI D. P. KARMARKAR: Sir, I move:

"That at page 2, line 26, after the word 'Inspectors' the words 'for such areas as may be assigned to them by the Central Government or the State Government, as the case may be' be inserted."

2. "That at page 2, line 28, the words "the areas in which' be deleted."

The questions were put and the motions were adopted.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 4, as amended, stand part of the Bill."

The motion was adopted.

Clause 4, *as amended, was added to the Bill.*

Clauses 5 *to* 9 *were added to the Bill.*

Clause 10 (*Amendment of section* 33)

SHRI D. P. KARMARKAR: Sir, I move:

3. "That at page 4, line 22, the words 'the areas in which' be deleted."

The question was put and the motion was adopted.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 10, as amended, stand part of the Bill."

The motion was adopted.

Clause 10, as amended, was added to the Bill.

Clause 11 (Insertion of new section 33A).

SHRI K. SANTHANAM: Sir, I move:

5. "That at page 5, after line 7, the following be added, namely:—

'33B. Notwithstanding anything contained in sections 20 and 21, the Central Government may, by notification in the Official Gazette, declare that any drug or class of drugs, as may be specified in the notification, shall be deal with exclusively by the Government analysts and inspectors appointed by the Central Government, and on such declaration, no Government analyst or inspector appointed by State Government shall have power to deal with such drug or class of drugs.'"

I want to know the position of the Minister in respect of the point raised in my amendment because this is purely to help him. I have given a careful reading to the Bill and I find that the Bill, as it is, is inadequate. I think this is essential to avoid clash of jurisdiction. It is only an enabling clause because it is open to the Central Government to make that declaration. I think the hon. Minister will be wise to accept it.

The question was proposed.

SHRI D. P. KARMARKAR: Sir, I regret very much to say that I am not able to agree because in the structure of the Bill we have thought it advisable for the time being not to touch the powers of the States. As I said, the whole thing will be worked in consultation with the State Governments. Therefore, I would not like to have any change by which the Central Government will impinge upon the present powers of the State Governments. The idea is not to have a territory of our own and a territory of theirs. The idea is where the State Government functions efficiently we shall not interfere. But in major projects like the Pimpri factory, it might be that the State Government may not be functioning properly; there we might function. But let us function by agreement. Let it not be a sort of partition; let it be a joint family sort of thing.

SHRI K. SANTHANAM: Take the production of penicillin. Should it not be withdrawn from the Government Analysts of the States? Take such other drugs which are manufactured in the Central laboratory. In these drugs why should the State Governments exercise control? By my amendment I am enabling the Central Government to say that penicillin and similar other drugs may be withdrawn from the jurisdiction of the States.

Shri D. P. KARMARKAR: It is precisely there that I have perhaps not been able to make myself clear. Supposing the Pimpri factory is being looked after by the Bombay Government perfectly as well as it would be looked after by the Central Government, or even better, we would not withrdaw control from them, or we shall say that Pimpri production will be looked after by the Bombay Government. As against that, suppose a penicillin factory in some other area, where the State Government is controlling it, is not functioning efficiently; we will apply the method of persuasion and say that we shall come on the scene. So, it is proposed to be done largely by co-operation. It is not as if penicillin production in the whole of India need be under our control and not under the control of State Governments which can function efficiently. The idea is for both

of us to exercise control and wherever possible to have the powers delegated to the State Governments.

SHRI K. SANTHANAM: Is it the idea . . .

MR. DEPUTY CHAIRMAN: He is not accepting your amendment.

SHRI K. SANTHANAM: I want a clarification from him.

MR. DEPUTY CHAIRMAN: How many times can you speak? You have no right of reply.

SHRI K. SANTHANAM: Sir, I beg leave to withdraw my amendment.

**Amendment No. 5 was, by leave withdrawn.*

MR. DEPUTY CHAIRMAN: The question is:

"That clause 11 stand part of the Bill."

The motion was adopted.

Clause 11 was added to the Bill.

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

SHRI D. P. KARMARKAR: Sir, I move:

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

The question was put and the motion was adopted.

THE RUBBER (AMENDMENT) BILL, 1960.

THE MINISTER OF COMMERCE (SHRI N. KANUNGO): Sir, I move:

"That the Bill further to amend the Rubber Act, 1947, as passed by the Lok Sabha, be taken into consideration."

Sir, this is a very simple Bill which purports to achieve the object of more efficient collection of the cess which is levied under this Act. Under the present scheme of things, the cess on rubber is collected from producers of rubber which is the normal way of collecting all cess revenue. In this particular case of production of rubber, there happen to be 26,000 estates, the bulk of which are very small, maybe, 5 acres, 2 acres or even 1 acre or less. It is impossible to get all these estates registered because the penalty for non-registration is prosecution.

First of all, to spot out which estates have not registered themselves and then prosecute them is a tremendous task. Apart from that, it is very much time-consuming. The further step is that an estate which is registered as such is expected to submit periodical returns of the production of the rubber in the estate. On the basis of that production, which is checked by the Rubber Board, assessment will be made and collected. Considering the large number of small estates which do not register themselves, and which naturally escape payment of cess, it has been found that almost 40 per cent. of the cess due has not been realised. Therefore, this Bill provides that apart from the obligation on the producer to submit the return, the cess will be collected from the consumers, i.e., the consumers of raw rubber. It will be easier, more efficient and quicker because the consumers of raw rubber are only a handful. In fact, there are something about 347 consumers of rubber. So, it will be easier to collect the cess from the consumers' end though, as I said, it will be a legal obligation on the producer also.

[THE VICE-CHAIRMAN (SHRIMATI K. BHARATHI) in the Chair.]

Here opportunity has been taken to take powers, that the Government may, if they so think proper, enhance the cess. The cess, which stands today at the maximum figure of one anna per pound, can be raised up to, but not more than, 50 naye paise per

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*For text of amendment, *See* col. 547 *supra*.