

to the Communist Party. We would like to know; an investigation has to be instituted; it must be instituted against this, Sir . . .

SHRI BHUPESH GUPTA: Sir, I suggest that all the remarks about the Communist Party be expunged; they are utterly irrelevant.

(Interruption.)

MR. CHAIRMAN: Order, order, Mr. Chettiar.

SHRI T. S. AVINASHILINGAM CHETTIAR (Madras): I must say, Sir, that the country is relieved to understand—from the statement—that General Thimayya has withdrawn his resignation. But one thing, Sir, and it is more for the Prime Minister to consider than anybody else. People of the calibre and of the position of General Thimayya do not resign unless it be for certain reasons which they consider important, and temperamental reasons there may be, but we would believe and I am sure the Prime Minister believes that something deeper than mere temperamental differences is there and we hope, Sir, holding the responsible position that he does hold, he will certainly go into this matter.

SHRI B. K. P. SINHA (Bihar): Sir, the Prime Minister said that when he met General Thimayya, General Thimayya gave no indication that he would be offering his resignation. But thereafter there came a meeting between the Defence Minister and General Thimayya. We would like to know: Was that meeting responsible for his resignation, the immediate cause for his resignation? What transpired at that meeting? Did the temperamental differences become so acute there that General Thimayya was forced to submit his resignation the next day or a day thereafter? We would like a clarification.

SHRI JASWANT SINGH (Rajasthan): Just one or two points for
52 RSD—4.

clarification arising from the statement of the Prime Minister, Sir. They are not clear to me. In regard to the temperamental differences the Prime Minister has spoken three or four times, he has repeated them when he was asked repeatedly. But these temperamental differences are between whom? Whether it is between the Defence Minister and the Chief of the Army Staff or between the Defence Minister and the Chiefs of Staff in general, this point is not clear to me. Secondly, it is quite right that the Prime Minister has paid very high tributes to the Defence Minister for the great work that he has done during his tenure of office in the Defence Ministry. But the picture that the Prime Minister has drawn of the Chief of Staff, General Thimayya, is not very encouraging. It appears as though he is not a very responsible man and he is unworthy to hold the high post that he is holding if on small petty matters he resigns.

MR. CHAIRMAN: It is not necessary to pursue the matter any further. The House stands adjourned till 2-30 P.M.

The House then adjourned for lunch at fourteen 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 CRIMINAL LAW (AMENDMENT) BILL, 1959—continued

SHRI AMOLAKH CHAND: Mr. Deputy Chairman, before lunch I was trying to explain to the House as to why this amendment was being brought forward. If I have understood it rightly, it is meant for a particular case. What I was saying was: Why should it be necessary for the Government of India to bring forward this long-drawn case to this Parliament? The purpose, if I have understood it rightly—it is quite possible

[Shri Amolakh Chand.] that I might have understood it quite wrongly—is to invest the Supreme Court with such powers as the latter has not got till today. If the Supreme Court has not got some powers, which it is now intended to be given today, I submit that the retrospective effect of this amendment is not proper. Sir, why should it be necessary to provide such powers for an individual case when that accused has been acquitted by the Punjab High Court?

Sir, I am trying to explain that as far as proceedings of attachment regarding offences under section 406 and all that of the Cr. P. C. are concerned, it is the criminal court which has got a jurisdiction. That is the ordinary law of the country. But, under this Ordinance, I am trying to point out that the property which has been attached is to be disposed of by the District Judge. I have not been able to follow why the Parliament should agree to such an amendment for an individual case. That is my whole difficulty. I want to understand why that is necessary, without knowing as to how much amount is involved, without knowing the nature of the offence, without knowing how many cases would be affected by this. As I was trying to point out, the offence, if any, which was committed was committed somewhere in the year 1943, 1944 or 1945, and after thirteen years we are empowering the Supreme Court with a power which was never vested in the Supreme Court. This backdoor method of applying an amendment with retrospective effect, from the 26th January, 1950, is something which I have not been able to understand.

As far as the legal aspect is concerned, I do not challenge it because this Ordinance, which is operative -by courts of law today, can be repealed or amended or altered by this Parliament. Parliament, being sovereign, is entitled certainly to pass any provision even with retrospective effect. The whole propriety which I am questioning is whether this Parlia-

ment should give such powers to the Supreme Court which it is not enjoying today and which are necessary only for the disposal of a particular case. Therefore, Sir, I find myself unable to understand the whole Statement of Objects and Reasons. I could have understood it if there were about a hundred or two hundred cases pending decision in various courts, and if the matter involving some principle of law had been before the Supreme Court. I do not even know whether this particular case is sub *judice* with the Supreme Court. As I understand it, an appeal has been filed—applications might have been moved in the Supreme Court; they might have, been rejected, and I think rightly rejected—and should we at this stage, when the Supreme Court is possessed of this appeal, pass an Act or pass such amendments which would give jurisdiction to the Supreme Court which is not at present enjoyed by it? Now, Sir, a reference has been made to the Federal Court. As we know, the Federal Court was established under the Government of India Act, 1935. The Ordinance under question relates to the year 1944. And, if I recollect rightly, the Federal Court was functioning as the Supreme Court in the year 1944-45 and later on also. Now, the whole question is whether a power, with which the Federal Court was not invested in the year 1944, can be entrusted to the Supreme Court with retrospective effect for a particular case? Now, if we pass these two amendments, which have been brought forward by the Law Minister, what would be the position? The position would be that we would be passing or giving jurisdiction to the Supreme Court which it has not got, and we would be prejudicing the fundamental rights of the person who was accused, but has since been acquitted by the Punjab High Court. Does it not mean giving a right to the Supreme Court at this late stage in regard to a person who has secured his acquittal because of the absence of any law on the subject? Can we give such a right at this late stage?

Now, the hon. Minister would say, "Well, this is a very important matter, and the property involved is to the tune of crores and crores of rupees, and it is in the interest of the Government that such a power should be given to the Supreme Court". But no such case has been made out by the hon. Law Minister. Even in the Statement of Objects and Reasons you will not find a mention of such an important right being vested in the Supreme Court. The only question from a layman's point of view is that if a man has been acquitted after a prolonged trial by the lower courts and the High Court, and the Supreme Court has no power to continue the attachment under special circumstances as mentioned in the Ordinance, should we invest the Supreme Court with such rights or not? And, if we want to give it a retrospective effect, how far it would look proper for Parliament to give that right to the Supreme Court?

Sir, nobody has raised that point, but to me it strikes that every individual has a right to defend himself in a court of law. He is subjected to the normal law of the country, and if that normal or even abnormal law, as it was in the year 1944—Special Ordinance of the Criminal Law Amendment—has no force, should we, by vesting the Supreme Court with such powers, deprive an individual of that liberty? At least it does not appear so clear from the facts put by the Law Minister that we should pass such a legislation.

With these few remarks, Sir, I do not think it would be proper for us to approve these two amendments. Thank you.

SHRI BIBUDHENDRA MISRA (Orissa): Mr. Deputy Chairman, Sir, so far as I have been able to follow, the two apprehensions of my previous speaker follow from two wrong notions. One is that this amendment seeks to give more powers to the Supreme Court that was not existing

and secondly this amendment proposes to punish persons who have been already acquitted by a certain High Court. I would submit that both these assumptions are wrong and unwarranted, because the amendment does not say anything about it at all. So far as an offence under the normal course of law is concerned, it is one thing. So far as offences are concerned, they are not punished or tried under this Ordinance. This only deals with certain properties that have been acquired by the commission of those offences. I would refer to the preamble of the Ordinance itself. I would come to the amendment later on. The objective of the Ordinance is stated as follows:

"Whereas -an emergency has arisen which makes it necessary to provide for preventing the disposal or concealment of money or other property procured by means of certain offences

Those offences have been given in the schedule of the Ordinance and they come under sections 161, 165, 406, 408, 409, 417 and 420 of the I.P.C. So far as the trial and punishment under these sections of the I.P.C. are concerned, this Ordinance has nothing to do with them because the procedure of the normal law would follow. It only deals with acquiring properties by the Commission of certain offences and prevention of the disposal of the same pending trial. So, the acquittal of the Punjab High Court has nothing to do so far as the present amendment is concerned.

SHRI AMOLAKH CHAND: It appears that my hon. friend has not read the Statement of Objects and Reasons; It talks about these things.

SHRI BIBUDHENDRA MISRA: I have, read it and I will come to it. The first paragraph of the Statement of Objects and Reasons only gives the history. It says that there was an appeal by the accused and the Punjab High Court acquitted the accused and the Punjab State has obtained leave for appeal to the Supreme Court

[Shri Bibudhendra Misra.] against the order of acquittal. We are not concerned with the first paragraph of the Statement of Objects and Reasons. We are only concerned with the second paragraph here. The first paragraph gives only the history and this amendment has nothing to do with the conviction or otherwise of that person. It is open to the Supreme Court to punish him or convict him or not according to the evidence or procedure laid down by the normal law. So far as this Ordinance is concerned, there is nothing which gives more power to the Supreme Court about it. This only relates to the disposal of certain property which has been acquired by the persons by commission of the scheduled offences. Now the provision under the existing law, before the Constitution came into force, was that the High Court was a supreme body. Therefore the termination of the proceedings by the Ordinance itself meant termination of the proceedings by the High Court. Now by virtue of the Constitution of India the Supreme Court possesses certain powers so far as criminal proceedings are concerned. For, example, when a substantial question of law is concerned, if the High Court is satisfied, it will grant the leave to go to the Supreme Court. Even if the High Court refuses, if the Supreme Court is satisfied about it, it would entertain that application. It is the Constitution that has given the Supreme Court wider powers and no enactment can give the Supreme Court wider powers than what it has under the Constitution.

This amendment, as I already said, has nothing to do with conviction of the persons. It only seeks that so long as the case is not disposed of by the Supreme Court, the property that has been attached by virtue of this Ordinance should not be delivered to the persons concerned lest they should dispose it of. That is the whole purpose. It has nothing to do with their conviction or their acquittal at all. It only wants to ensure that the property

acquired by these people, the property that has been under attachment, should not be given to them and it should not be disposed of by them until the decision of the Supreme Court regarding the criminal case is over. That is clear. Therefore there cannot be any objection so far as this amendment is concerned.

Of course, I have one objection. If it is meant to cover some specific cases which came up and which were pending before the Constitution came into existence, it is all right that we continue this amendment so far as those specific cases are concerned but I would ask the Minister this question, apart from those specific cases, whether it is necessary to continue such an Ordinance after the emergency is over without bringing an Act of the legislature, if at all he feels it necessary to have such a legislation. With these words, Sir I support the amendment.

SHRI HARIHAR PATEL (Orissa): Mr. Deputy Chairman, I have nothing much to say but I would like to seek a clarification from the hon. Minister. While we were discussing the International Monetary Fund Ordinance, it was found necessary to substitute the word 'Ordinance' by the word 'Act'. I would ask him whether that is necessary here or not. Are we going to amend an Ordinance by an Act now? Secondly I would like to know why there was this delay on the part of the Government. They should have anticipated this trouble and come up with such a Bill earlier. After the case is decided, after the accused is acquitted, to come up with such a Bill to make, so to say, a provision for appeal against acquittal seems to be most improper and objectionable and is an interference with the right of the citizens, because our Constitution provides that an accused acquitted should not be again prosecuted for the same offence. It is almost becoming an interference with the acquittal of the accused.

SHRI BIBUDHENDRA MISRA: Is there such a provision?

SHRI HARIHAR PATEL: My complaint is the Government is simply now trying to create a provision for I appeal against acquittal.

SHRI BIBUDHENDRA MISRA: It is j not that.

SHRI HARIHAR PATEL: In the ! Ordinance you will find that the intention was to put a finality to the matter with the pronouncement of the High Court. Now if the Government wanted this to go to the Supreme Court, they should have anticipated it and come up with such a Bill earlier and prior to the decision of the High Court, not now. It is now too late and this Bill seems mpst objectionable and improper.

SHRI B. K. P. SINHA: Sir, I do not ' share the apprehensions of my friend from U.P. so far as this Bill is concerned. I share the feelings of my friend Shri Misra from Orissa. I feel that the criticism of Mr. Amolakh Chand is based on certain misapprehensions and Mr. Misra has removed them but I would like to seek some information from the Hon. Minister. „ On what date did the Punjab High Court deliver its judgment? If a month or two or three months have passed between the delivery of this judgment and the enactment of this measure, I would like to know whether the accused have been sleeping all this time. My fear is that if the judgment was delivered some two months back, the accused would have moved with the greatest speed and got possession of the property and they might be out of reach of Government. ,I would like to know why Government are so optimistic that even now the properties are within their reach. That is a matter for information.

Secondly I feel that the language of two clauses is not very happy. I refer to clause 2(2)(b)(i) and (ii). Tlie idea is that the criminal proceedings should terminate when a matter which has been taken to the Supreme Court is adjudicated upon by the Supreme Court. When the matter is

decided by the High Court proceedings shall not terminate unless the time of limitation, unless the limitation prescribed by the Supreme Court for filing of special leave expires. The Supreme Court rules provide that when no leave application has been moved in the High Court, the time shall be 90 days from the date of the judgment or order. If an application for leave is moved, and rejected, then it is 60 days from that date. But. then the Supreme Court rules also provide that if the period expires during a holiday or holidays, then it shall be open to the party to file an appeal on the reopening day. The Supreme Court sometimes is closed for fifteen days or sometimes for longer periods. Therefore, if the period of limitation expires within that period, then even though 90 days or 60 days might have passed, proceedings could not be dead, so far as the Supreme, Court is concerned. But by these two provisions here, in 2(2)(b)(i) and 2(2)(b)(ii), you fix a dead limit of 60 days in one case and 90 days in another case. What would happen? The matter may not come before the Supreme Court if the period expires during holidays, when a period of holidays intervenes.

Then there is another rule which says that the time requisite for obtaining a copy of the judgment under appeal shall be added to this period of 60 days and 90 days. These two clauses do not take note of these facts and therefore, they set a limitation which, in my opinion, may prove inadequate in certain cases and then the Government may be faced with certain complications. Therefore, I feel that there is a case for improving the language of these clauses. Otherwise I do not see that there should be any objection to this measure. Mr. Misra was right when he said that this Bill does not confer any power on the Supreme Court. This Bill merely says that an attachment "will continue till the matter is adjudicated upon by the Supreme Court or till the matter assumes such a form that an appeal to the Supreme Court becomes incompetent, and I feel that this Parliament is

[Shri B. K. P. Sinha.] competent to enact retrospective legislation in the terms that it seeks to legislate.

With these words, Sir, I support the measure.

SHRI AKBAR ALI KHAN (Andhra Pradesh): Mr. Deputy Chairman, I fail to understand why the Government took about nine years to bring this measure before us. There is no doubt that Parliament has got the power to give retrospective sanctions in certain matters. But the case for it should be established before Parliament with very good reasons for such legislation. I would have very much liked the Law Minister to provide us with the number of such cases and the occasions which had arisen where they could not cope with the situation because there was this lacuna in the whole* Ordinance. That material would have given us sufficient justification, not only to approve of this amendment, but also to give the retrospective sanction that is required.

So far as the apprehension of my hon. friend, Shri Amolakh Chand, is concerned, I do not share it. This is a simple provision for one object and that object is, as has been pointed out by Mr. Misra, about the property. According to this Ordinance, the attachment continued only regarding the property. It has nothing to do with the punishment. That terminated automatically, because so far as the criminal courts are concerned, the High Court was the final authority. Since the inauguration of the Supreme Court, the position has definitely changed. So what happens? Suppose under this Ordinance some decision has been given in favour of the accused and if the matter goes to the Supreme Court, then the order of attachment automatically goes, with the result that difficulty does arise in such cases, because the property will be taken away. If ultimately the Supreme Court decides in favour of the

prosecution, there will be nothing left to be recovered. That I quite understand and this is, therefore, an enabling provision, an absolutely consequential provision, I should say, to the inauguration and establishment of the Supreme Court. But as I said, there must be some valid and strong grounds given to show why the matter has been delayed for nine years and what were the cases and what were the facts and figures which justify this amendment. With these observations I close my remarks.

SHRI A. K. SEN: Mr. Deputy Chairman, may I clear at the very outset, some, of the misapprehensions which appear to be in the minds of many of the hon. Members who have taken part in this discussion. The first misapprehension seems to be that it is only to cover one case that the Government is introducing this Bill. There are now about eight cases pending and covered by the Ordinance, besides this one which is before the Supreme Court by virtue of a certificate granted by the Punjab High Court, and in the other cases we do not know what will happen, either at the trial stage or at the stage of the High Court. A similar situation might arise, and therefore, this amendment is absolutely necessary for those cases also. So far as the case which has come to the Supreme Court at the instance of the Government of Punjab is concerned, on a certificate granted by the Punjab High Court, I want to say this to clear the second misunderstanding, that this amendment does not seek to enable the Punjab Government to prefer an appeal at all. In fact, appeals can be preferred to the Supreme Court either under article 134 or article 136 of the Constitution, and in this particular case, the appeal has been preferred on the strength of a certificate granted by the Punjab High Court under article 134 of the Constitution. Therefore, this amendment has nothing to do with the question of enabling the Punjab Government to prefer an appeal or not. The Punjab High Court, while allowing the appeal and

acquitting the accused on the ground of the original charges, thought it fit to allow or grant the certificate for appeal. They themselves thought that it was a fit case for appeal. Therefore, this appeal is pending.

The whole question is whether, while the appeal is pending, the accused should be enabled to take away the property which has been lying in attachment to answer the penalties imposed or which may be imposed as a result of the Supreme Court reversing the judgment of the Punjab High Court. Should the property be allowed to be taken away and not be there to answer the penalties which might result? That is the whole question.

SHRI AMOLAKH CHAND: What is the total valuation of the property attached?

SHRI A. K. SEN: About nine lakhs.

SHRI AMOLAKH CHAND: So the property is worth nine lakhs.

SHRI A. K. SEN: Yes.

MR. DEPUTY CHAIRMAN: That is in one case?

SHRI A. K. SEN: Yes, this one case which is before the Supreme Court now.

MR. DEPUTY CHAIRMAN: What about the properties in the other eight cases?

SHRI A. K. SEN: In the other eight cases, judgment has not yet been pronounced.

MR. DEPUTY CHAIRMAN: What is the value of the property?

SHRI A. K. SEN: I have not got the details. But in one case it is about Rs. 50,000 and in another case about Rs. 2 lakhs, and like that, not that the entire cost of the property under attachment will be fully adequate to answer the penalties that may be imposed.

3 P.M.

SHRI AMOLAKH CHAND: What is the offence for which this attachment is pending?

SHRI A. K. SEN: Under section 406.

SHRI AMOLAKH CHAND: Does it mean that he has misappropriated nine lakhs of rupees out of which this particular property has been built?

SHRI A. K. SEN: I do not exactly remember but the Ordinance says that the judge trying the offence and pronouncing judgment will declare in the judgment itself how much property the accused has collected by committing fraud on the Government and it is that amount which is recoverable from the attached properties. That is the scheme of the ordinance. I do not know what amount was found by the trial court as having been misappropriated or obtained by fraud by the accused. The whole scheme of the ordinance is to enable the Government to recover the penalties which would be imposed by a court as a result of the findings that the accused had misappropriated a particular sum of money by keeping these properties intact and preventing any alienation of the properties pending the trial. Now, the trial stage comprises the entire proceedings up to the stage of the final order of the High Court because there was no Supreme Court then. I appreciate what the hon. Member has said that we should have thought about it as soon as the Supreme Court was established but at that time the legal officers who were in charge of the case thought that the High Court would not reverse the case. The legal advice obtained by the Government of Punjab was—I do not quite agree with it myself and I think the Supreme Court is perfectly right in dismissing that application—that though the attachment continued only up till the judgment of the High Court, while the appeal was admitted into the Supreme Court, the Supreme Court, could extend the duration of the attachment. The Supreme Court negatived that contention, and rightly

[Shri A. K. Sen.] so in my humble submission because this was done under a particular statute and that statute limited the duration of the attachment. The Supreme Court could not extend the duration. Rightly or wrongly, the Punjab Government had that advice and the Supreme Court, in my humble and respectful submission, rightly stated that, that being a statutory attachment under a particular statute, it suffers from the limitations imposed by the statute itself and that the Supreme Court could not extend the incidence of that attachment. That being the decision, it became necessary not only to cover pending cases but also the other cases which are under trial by making a suitable amendment necessitated by the setting up of the Supreme Court itself. We should have really thought about it earlier. I fully agree with that suggestion but not having done so does not certainly take away the validity of the argument that the Government must be properly protected from losses that may arise if these properties are allowed to be alienated pending the trial in the Supreme Court in cases where matters come up to the Supreme Court. The Bill covers only one point, namely that the attachments under this statute would extend beyond the time taken by the proceedings in the High Court and would comprehend the time taken by the proceedings before the Supreme Court. That is the whole purpose. The Supreme Court has today got criminal authority and in fact is seized of one case and may be seized of other cases in future also. That is why it is absolutely necessary that the attachment should be co-extensive with the proceedings right up to the Supreme Court. That is absolutely rational. I think this clears many of the misunderstandings, some of which have been expressed by Mr. Amolakh Chand that the ordinance does not give any extra powers to the Supreme Court. The Supreme Court has got full authority under the Constitution. It is only a question of keeping the property under attachment until

proceedings in the Supreme Court terminate. Therefore I submit that having regard to the interests of the Government . . .

DR. W. S. BARLINGAY (Bombay): The point raised by Mr. Sinha has not been answered.

SHRI A. K. SEN: About • possible changes in the language? If no changes are submitted, I cannot deal with the suggestion.

DR. W. S. BARLINGAY: Suppose the rules of the Supreme Court change tomorrow. What happens then?

SHRI A. K. SEN: There is no question of our attempt being dependent on the Supreme Court. If you look at the clause, you will find that we have fixed a date within which you must take proceedings. That was the scheme of the ordinance.

DR. W. S. BARLINGAY: There is nothing invalid in it but the point is this: If tomorrow the Supreme Court changes the rules and says that it will be 120 days instead of 90 days, what happens?

SHRI AKBAR ALI KHAN: That is an unwarranted supposition, Sir,

DR. W. S. BARLINGAY: I know that very well.

That contingency will have to be met. That was the point of Mr. Sinha.

SHRI A. K. SEN: If you look at the ordinance, you will find that a date has been fixed for proceedings in the High Court. The High Court rules might have changed. We must take proceedings according to the time. We have fixed the time-limit with reference to the actual number of days rather than keep it vague and elastic according to the rules which may be framed from time to time. If you want to prefer an appeal against a judgment, then the appeal must be

preferred within that particular [period. I think that is a much more certain proposition.

SHRI AMOLAKH CHAND: May I put a question, Sir, with your permission?

I would like to know the date on which an application was made to the Supreme Court for continuing the attachment and the date on which the Supreme Court decided that it had no jurisdiction. The other point is whether the Supreme Court, after the passing of this measure, will be entitled to set aside its own previous order.

SHRI A. K. SEN: The Supreme Court judgment was, I think, some time in May or June. We are giving retrospective effect to this measure and this particular provision is supposed to have been there on the 26th of January, 1950. Therefore, there will be no vacuum, *interrugnum*.

SHRI AMOLAKH CHAND: This measure will set aside the order passed by the Supreme Court earlier?

MR. DEPUTY CHAIRMAN: Yes, yes.

SHRI AMOLAKH CHAND: We should be clear on this, Sir.

SHRI A. K. SEN: This is the first instance we have framed a law as indicated by the Supreme Court.

MR. DEPUTY CHAIRMAN: It shall be deemed to have come into force on the 26th January, 1950.

SHRI AMOLAKH CHAND: This means that the Supreme Court would be compelled to vacate the earlier order passed by them.

SOME HON. MEMBERS: No, no.

SHRI JASPAT ROY KAPOOR (Uttar Pradesh): The property will continue to remain attached automatically.

MR. DEPUTY CHAIRMAN: The question is:

"That the Bill further to amend the Criminal Law Amendment Ordinance, 1944, be taken into consideration."

The motion was adopted.

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

Clause 2 was added to the Bill.

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

SHRI A. K. SEN: Sir, I beg to move: "That the Bill be passed."

MR. DEPUTY CHAIRMAN: Motion moved:

"That the Bill be passed."

SHRI B. K. P. SINHA: I want to know the date on which the High Court judgment was delivered and also why the Government are sure that the properties are still within their reach?

SHRI A. K. SEN: The judgment was delivered in June, 1959. I am sure because, after this legislative measure is passed, the clause will be deemed to have been there as from the 26th January, 1950.

SHRI AMOLAKH CHAND: I would like to have further clarification from the hon. Law Minister. The Supreme Court decided this case in June and this matter was brought to the notice of the Law Ministry.

MR. DEPUTY CHAIRMAN: He gave you the dates.

SHRI A. K. SEN: I did not give the exact date, Sir. It may be either in May or June.

SHRI AMOLAKH CHAND: Kindly hear me.

[Shri Amolakh Chand.]

When this matter was brought to the notice of the Law Ministry in May, or June, may I know why they were sleeping over this matter till the 20th August 1959?

MR. DEPUTY CHAIRMAN: It has come before the Lok Sabha and then here.

SHRI AMOLAKH CHAND: No, Sir, this Bill was introduced in this House. If Mr. Deputy Chairman says like this, I have nothing to say.

MR. DEPUTY CHAIRMAN: The Bill has to be drafted.

SHRI A. K. SEN: In this particular matter, the Government of Burma was also involved. In the particular case just before the Supreme Court, if anything is recovered from the attached property, quite a part of it will go to the Burma Government.

When the decision was given by the Supreme Court the matter was referred by the Punjab Government to the Government of India who at once got in touch with the Government of Burma and the Government of Burma made some representations also in the matter. Then the matter was considered; the Ministry alone cannot decide the law as everybody knows. We have, first of all, to put it before the Cabinet and get its sanction. It is only after a decision by the Cabinet that a Bill can be brought. I think after the Supreme Court judgment the pace has been quite quick; I wish it had been a little quicker after the commencement of the Constitution as the hon. Member there pointed out.

MR. DEPUTY CHAIRMAN: The question is:

"That the Bill be passed." The motion was adopted.

THE OIL AND NATURAL GAS COMMISSION BILL, 1959

THE MINISTER OF MINES AND OIL (SHRI K. D. MALAVIYA): Sir, I move:

"That the Bill to provide for the establishment of a Commission for the development of petroleum resources and the production and sale of petroleum and petroleum products produced by it and for matters connected therewith, as passed by the Lok Sabha, be taken into consideration."

While moving for consideration, Sir, I would like to say a few words about this Bill. We seek to entrust the present Oil and Natural Gas Commission, which is a Department of the Government, with more powers to function. Sir, by experience it has been found out by us that when we have to function under the limitations of a Ministry, the special peculiarities of oil exploration prevent us from functioning in that efficient way as is absolutely necessary for discovering oil. We tried our level best to work under the Ministry for three years and we found that we had to compete with international explorers and over and above that, in view of the urgent necessity of discovering oil and the pressing need for producing indigenous crude oil in our own country, we found we must expedite the whole process. Right from the very beginning to learn the technique of oil exploration, to apply that technique to do the job, to develop relations with those from whom we are seeking assistance and then to implement the schemes in a business like way, all these necessitated a little rethinking on our part and we thought that some more powers should be conferred on the Oil and Natural Gas Commission and the present departmental Commission should be converted into a statutory corporation so that we may be able to function more expeditiously.

Sir, I would like now to state the facts as they are with regard to oil. We are consuming about 5