

## Bill

Tayyebulla, Maulana M.  
 Tripathi, Shri H. V.  
 Umair, Shah Mohammad.  
 Valiulla, Shri M.  
 Venkateswara Rao, Shri N.  
 Vijaivargiya, Shri Gopikrishna.  
 Violet Alva, Shrimati.  
 Warerkar, Shri B. V. (Mama).  
 Yajee, Shri Sheel Bhadra.  
 Yashoda Reddy, Shrimati.

NOES—12

Ahmad, Dr. Z. A.  
 Gour, Dr. R. B.  
 Gupta, Shri Bhupesh.  
 Khan, Shri Abdur Rezzak  
 Nair, Shri Govindan.  
 Nair, Shri Perath Narayanan.  
 Narasimham, Shri K. L.  
 Reddy, Shri Mulka Govinda  
 Sekhar, Shri N. C.  
 Subba Rao, Dr. A.  
 Vallabharao, Shri J. V. K.  
 Venkataramana, Shri V.

MR. DEPUTY CHAIRMAN: Ayes—  
 114; Noes—12.

The motion was adopted.

THE INTERNATIONAL MONETARY  
 FUND AND BANK (AMENDMENT)  
 BILL, 1959

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

"That the Bill further to amend  
 the International Monetary Fund  
 and Bank Ordinance, 1945, as passed  
 by the Lok Sabha, be taken into  
 consideration."

Sir, the Bill before the House is a  
 simple measure. It seeks to amend  
 the International Monetary Fund and  
 Bank Ordinance which was promul-

gated on 24th December, 1945, to give  
 effect to the Articles of Agreement of  
 the International Monetary Fund and  
 International Bank for Reconstruction  
 and Development, and to empower the  
 Government of India to subscribe  
 towards additional shares in the autho-  
 rised capital stock of the International  
 Bank for Reconstruction and Develop-  
 ment. Opportunity is also being taken  
 to convert the Ordinance into an Act.

Sir, before I explain the objects of  
 the Bill before the House, I would like  
 to say a few words about the Ordinance  
 which it seeks to amend and  
 replace by an Act. During the last  
 War, an Act called the India and  
 Burma Emergency Act was passed in  
 1940, which had the effect of amending  
 the Government of India Act, 1935, so  
 that all the ordinances passed during  
 the emergency period were exempted  
 from the condition which limits their  
 validity to a period of six months. The  
 Fund-Bank Ordinance is one of such  
 ordinances. It is therefore valid even  
 today, Sir, having the force of law for  
 all purposes.

The Bank and the Fund, as the  
 House is aware, came into existence  
 in December, 1945, as a result of an  
 international agreement arrived at  
 during the Bretton Woods Conference  
 in 1944. India was among the nations  
 who were represented at this confer-  
 ence and was also among the 30 origi-  
 nal signatories who signed the  
 Articles of Agreements of the Fund  
 and the Bank at their commencement.  
 India thus, Sir, is a founder-member,  
 as the hon. Members are themselves  
 aware, of these two institutions.

The object of the Bank is to promote  
 economic development in member-  
 countries by financing sound develop-  
 ment projects through long-term  
 loans at reasonable rates of interest.  
 I need not really elaborate my point  
 because all the Members are aware  
 of the importance of these two insti-  
 tutions. But I would like to mention  
 here that up to date the Bank has  
 given 232 loans in 44 countries  
 aggregating more than \$4.4 billion.

India is the largest beneficiary of the assistance from the Bank because she has secured 23 loans totalling \$592 million. I would like to mention here, Sir, that 64 per cent of the total amount of loans has been obtained for the public sector projects, that is, for railways, the Damodar Valley Corporation, the Koyna Hydro-electric Project, etc., and the balance has gone to the private sector. Among the private sector projects, steel and power got the priority and they have really benefited from the Bank's loans mostly. The Bank's attitude to the problem of economic development in India has been one of great sympathy and great friendliness. Hon. Members will recall the initiative taken by the World Bank in organising a combined effort to secure foreign exchange assistance for us and thus to enable us to maintain the momentum of our development plans.

The Bank's resources, Sir, for lending are derived, as the hon. Members are aware, partly from the paid-in portions of subscriptions already made by the members. These amount to 20 per cent. of the total. However, for the bulk of the requirements, Sir, the Bank relies on borrowings from the world's capital markets and financial institutions. The ability of the Bank to borrow from institutions and individuals, Sir, depends, apart from its reputation for prudent and sound management, on the fact that there is a contingent liability of member-Governments to meet the obligations of the Bank through possible calls on the uncalled 80 per cent. portion of the capital. The need for making such calls on the uncalled 80 per cent. has not arisen so far, and there is little likelihood of such a call in future also unless something unforeseen happens and there is a drastic deterioration in the international financial situation. But we do not think that that situation will arise when they will require to call for the uncalled portion of 80 per cent. of the capital.

Sir, the capital needs of under-developed countries have increased

with the rising tempo of their developmental activities which have increased very much during all these years and therefore it will be interesting to note here that currently the Bank is lending at a rate of about \$700 million a year. Its borrowings during the last two years have been \$650 million and \$430 million, respectively. It will have to continue borrowing in future also. But favourable response to its efforts in this direction will depend on prospective investors being convinced that the bonds of the Bank will continue to be of the same financial strength as before. In these circumstances, the Bank management last year came to the conclusion that very soon the Bank's borrowings would reach the limit to which these are backed by the guarantees, namely the 80 per cent. uncalled portion of its capital stock. In order to enable the Bank to continue its operations at the present growing tempo, the Board of Governors of the Bank have decided to increase the authorised capital of the Bank from \$10 billion to \$21 billion. That means that it will generally double the individual subscriptions of the member-countries. India's subscription, as a result of this increase, will go up from \$400 million to \$800 million. But no payment is required to be made on account of this increase, as the Governors have decided that the entire additional subscriptions should remain 'uncalled', the objective of the enlargement of the Bank's capital being only to enhance its guaranteeing ability. However, our consent to the increase in subscription is necessary because it amounts to a contingent liability as in the unlikely event of the Bank failing to meet the request or any of its obligations in future from its normal resources, member-countries may be required to meet them through calls on the uncalled portions of their subscriptions. Now it so happens, that the Fund Bank Ordinance of 1945 empowers the Central Government to pay its subscription towards the original share capital only of the Bank but does not specifically empower pay-

[Shrimati Tarkeshwari Sinha.]  
ments towards an increase in the subscription. Legislative authority is, therefore, necessary because we have agreed to an increase in India's subscription to the Bank Clause 4(ii) of the Bill seeks this authority. Government are also taking this opportunity to convert the Ordinance into an Act.

Sir, I have done. Before I conclude I request and hope that the House will return the Bill to the Lok Sabha with its recommendation.

MR. DEPUTY CHAIRMAN: Motion moved:

"That the Bill further to amend the International Monetary Fund and Bank Ordinance, 1945, as passed by the Lok Sabha, be taken into consideration."

(Many hon. Members stood up.)

MR. DEPUTY CHAIRMAN: If necessary we will have to sit for another ten or fifteen minutes.

SHRI S. C. KARAYALAR (Madras):  
Sir, I have to raise a point of order before the House.

SHRIMATI TARKESHWARI SINHA:  
It is not audible.

MR. DEPUTY CHAIRMAN. A little louder please.

SHRI S. C. KARAYALAR: Appended to this Bill, is a certificate to the effect that the President has, in pursuance of Clauses 1 and 3 of Article 117 and Clause 1 of Article 274 of the Constitution, recommended to the Lok Sabha the introduction and consideration of the Bill. The President has not recommended the consideration of this Bill by this House. So far as I can remember, under Clauses (1) and (3) of Article 117 of the Constitution, the President has to recommend the consideration of any Bill under article 110 in either House of Parliament. I wish to know whether this House is now competent to consider this Bill

without a recommendation by the President under Article 117.

MR. DEPUTY CHAIRMAN: The recommendation has been received.

SHRI S. C. KARAYALAR: There is no certificate here

MR. DEPUTY CHAIRMAN: There is no point of order. Dr. Gour.

DR. R. B. GOUR (Andhra Pradesh):  
Mr Deputy Chairman, I am thankful to you for having given me this opportunity to speak because, unfortunately, I have to leave this evening itself. Sir, I want to take this opportunity to bring to the notice of this House and the Government the role of this International Monetary Fund and the World Bank for Reconstruction and Development, the two institutions that have been created out of the Bretton Woods Agreement. Now, what are these institutions and the interest of which class of people or sections in the world they look after and to what extent they are helpful or detrimental to the backward countries?

Sir, much has been said that these institutions are something in the nature of a boon for us, that backward countries, being participants in these institutions, will be able to get the capital for their capital development from these institutions. Is that a fact? Do these institutions allow us to develop our economy and our industry in the way we want, or do these institutions come in the way of the social objectives that we have placed before ourselves? Sir, this point was raised, I understand, in the Lok Sabha, and the hon. Deputy Finance Minister—fortunately it was she who replied to the debate in the Lok Sabha and it is she again who is initiating the debate in our House; I think she considered that she was giving a very intelligent figure to the House—she said that more than 60 per cent. of the loans from this World Bank have been secured for the public sector in the country, and, therefore, the charge that this institution does not help the

public, and helps only the private sector is unfounded. But inadvertently she also said in the other House that out of this, 44 per cent. went to the Railways. It is precisely this that I want to take up.

Sir, when the British themselves built such a huge Railway structure in our country, we did not think that the Britishers were industrialising our country. When the Britishers built transport, or even by these institutions of the Imperialist countries when they want to give you finance, they give finance only for transport, and mainly for transport. Sir, transport in industrial language is called "social overhead". It is not a basic industry that determines the industrial development of a country. Obviously when the British developed our Railways we did not give credit to them that they were industrialising India. In fact, those in our country, who thought that in this manner British imperialists were themselves decolonising India were attacked as wrong and misled. Therefore, I do not think the hon. Deputy Finance Minister would come and tell us that the Britishers have laid the foundations for industrialising our country by building a network of Railways. When that was not true of the British imperialists, it is not true of these instruments that are being imported out of the Bretton Woods Agreement also. Just as the British wanted the transport system for something else, similarly these institutions are financing or may finance your transport system for similar motives. After all, both are Imperialists. What are those imperialist motives?

I hope sometimes our people think that Marxism—the Prime Minister himself is very fond of saying that—is a little out of date. I may bring it to the notice of the Prime Minister that Marxism might have become out-of-date now when he has become the Prime Minister, but when he wrote his book "Discovery of India", in the Introduction he himself says that "Lenin was a great man and Marxism

gives us a certain approach to understand the problems."

SHRI AKBAR ALI KHAN (Andhra Pradesh): In which year did he write that?

DR. R. B. GOUR: He wrote that when he was in the Ahmednagar Jail. Sir, this is what Lenin has said in his celebrated book "Imperialism", about this very thing, namely, how the Imperialists want to finance such things. Sir, this is what Lenin says in his book 'Imperialism':

"Two hundred thousand kilometres of new railway lines in the colonies and in other countries of Asia and America represent more than 40 billion marks in capital, newly invested on particularly advantageous terms, with special guarantees of a good return, with profitable orders for steel mills, etc., etc."

So, it is not any basic or heavy industry that they are building. They are advancing their capital to build these social overheads in your country for their basic industries. So, they are giving you a loan, expecting orders and themselves reaping all the benefits and profits and at the same time earning interest on that loan.

DIWAN CHAMAN LALL (Punjab): Does not your argument lead to the firm conclusion that what you are saying is completely out-of-date?

DR. R. B. GOUR: I am sorry to say that my friend, Diwan Chaman Lall, since he left the diplomatic service, has become completely out-of-date. This is what they have done. Out of the grand total of 3,729 million dollars . . .

DIWAN CHAMAN LALL: What was that date?

DR. R. B. GOUR: I am quoting these figures from the 13th Annual Report of the Bank—1957-58

SHRIMATI TARKESHWARI SINHA:  
Does that pertain to India?

DR. R. B. GOUR: It is a grand total. They are having a double standard, one standard for Europe and another for Asia.

DIWAN CHAMAN LALL: The needs are different.

DR. R. B. GOUR: Sir, I was polite enough to allow him to interrupt once, and I yielded

DIWAN CHAMAN LALL: May I ask my friend to give way so that I could interrupt him properly?

DR. R. B. GOUR: No, Sir. Let me make my point and he can speak later.

So, Sir, this is what the Bank has done. Out of that total of 3,729 million dollars the allocation is as follows:

(Million dollars)

|                    |      |       |
|--------------------|------|-------|
| Africa             | .... | 479   |
| Asia               | .... | 948   |
| Australia          | .... | 318   |
| Europe             | .... | 1,186 |
| Western Hemisphere | .... | 798   |

Now this is what they have done. Their whole investment policy is directed in the interests of the U.S. imperialists. That is my thesis. Now let them find arguments. I have given you these facts. The way things are happening in South America is not unknown. Asia is 948 million dollars. Now let us see the break-up of investments in Asia. It is as follows:

(Million dollars)

|                |       |     |
|----------------|-------|-----|
| Electric power | ..... | 285 |
| Transport      | ....  | 301 |
| Rail roads     | ..... | 201 |

SHRIMATI TARKESHWARI SINHA:  
Would the hon. Member like to come all the way from Hyderabad in bullock-carts?

DR. R. B. GOUR: Sir, she would have enough chance to reply.

SHRIMATI TARKESHWARI SINHA:  
Do you grudge this amount being spent on transport?

DR. R. B. GOUR: The question is: Are they giving loans for the development of heavy industries, for steel mills and for factories? As I told you, the basic approach of the imperialists is to give you transport in order to carry your raw materials for their steel mills. I think the IISCO and the TISCO are the only exceptions in the entire Asian investment by this Bank.

Now, Sir, what about the conditions? The hon. Deputy Minister said that there were no conditions involved. But, Sir, the Agreement of the Bank with the Tata Iron and Steel Company says that the specific activities to be financed out of the proceeds of the loan shall be determined by agreement between the Bank and the borrower subject to modification by further agreement between them. Now do you mean to say that this is a condition between equals? Is India imposing this condition upon itself? You have told us that we are creditors as well as borrowers because we are connected with the International Monetary Fund. Will you put this condition on yourself? Further, Sir, the Agreement says that the borrower shall furnish to the Bank all such information as the Bank may reasonably require concerning the expenditure of the proceeds of the loan, etc. etc. For our D.V.C. also the Agreement has similar clauses. Is the Bank trying to know where we want to develop and in what direction we want to develop? So, Sir, it is futile to say that this Bank is a democratic institution trying to help the backward countries. It is an instrument in the hands of American imperialists to advance their own financial and economic interests. The conditions that they have laid down for advancing loans are not the normal conditions

that creditors must offer to the debtors. These conditions smack of the old imperial preference. The entire Bank works in the interests of the big financial sharks, Britain and America.

Lastly, Sir, I would say only one thing. It is neither from me, nor from Lenin, nor from Mr. Ajoy Ghosh. Mr. Ajoy Ghosh also is being quoted very frequently. Now, Sir, this is what the 6th September issue of 'London Times' has to say:

"Although few Americans, even among those who have operated the programme, would think of it in that way, its main function has been to preserve the existing order by financing the necessary minimum of imports—not to raise standards of living or to win people from Communism or to meet rising expectations... Certainly the great bulk of the actual dollars sent abroad has been used for that purpose, first in western Europe, then among a group of allies in Asia and more recently in Latin America. The most interesting evolution in the foreign aid picture in the past year is that the means of performing this balance of payments function have been strengthened, while all the talk has been of meeting the 'Soviet economic offensive' and of promoting the economic development of the 'uncommitted world'."

Actually, Sir, what they do is to advance their own interests. This is what they themselves are saying. I hope the hon. Deputy Minister would not try to give us some lullaby and say that this is a democratic institution which is advancing our economic development.

SHRI ROHIT M. DAVE (Bombay): Mr. Deputy Chairman, the Bill that is now before us has got only two important clauses, and before dealing with them, I would like to say something regarding the role that the World Bank has played in the development of our economy.

Sir, when the International Monetary Fund and the World Bank were first established, there were some doubts in our country and in many other countries also regarding the part that they would be playing in the development of the under-developed economy, and there were some hesitations whether by becoming members of these world institutions we were likely to lose some of our economic independence and our right to shape our own social policy according to our own light. Not only in India but even in the United Kingdom there was hesitation to become a member of the International Monetary Fund and the World Bank. It is a matter for gratification that these two institutions have proved worthy of the objectives that they had in mind and that the misgivings which some of the people had regarding the membership of these institutions have proved to be false. It is quite natural that when an institution like the World Bank or the International Monetary Fund tries to help other economies for certain projects which are necessary in order to develop the economy of the countries and also to raise the standard of living of their people, certain conditions are laid down and certain advices are given but it would be quite unrealistic to say that our taking loans from the World Bank or our partnership in the I.M.F. in any way has restricted our independence regarding the social and economic policies which we want to follow. At the same time it is necessary to realize that when we become members of these institutions and when we accept the responsibility as a member of these institutions, we will have to take into account our capacity to fulfil the obligations which we are undertaking as a result of this membership. This particular Bill for instance, authorises the Government of India to double the share capital from 400 million dollars to 800 million dollars. It is true that at the present moment we are not called upon to contribute a single pie but we are definitely undertaking a responsibility and when we undertake a responsibility, this

[Shri Rohit M. Dave.]

House would like to know how in case the contingent liability becomes a reality, the Government proposes to meet that liability. As it is, we are heavily indebted to foreign countries, to these international bodies as well as to other individuals and institutions. We will have to pay back the loans and we are trying our level best to see that when these loans mature, we will be in a position to repay them with interest. We have also passed a Bill in the last Session by which some of the currencies which were in circulation in the Middle East have been turned into special notes with the result that we have now undertaken a definite liability of cashing those notes for Sterling. We have also got now another 400 million dollars in case the contingency arises against the liability that we are undertaking today. The question that worries me is, whence are we going to get the necessary resources in order to meet all these liabilities with hardly Rs. 200 crores as a sort of backing to our currency? I do not think in the near future we are likely to develop so fast and earn foreign exchange to an extent whereby we will be in a position comfortable enough to meet any liability and I would be very anxious to know from the hon. Deputy Minister as to how we are going to make arrangements for these liabilities, real and contingent.

The next point that I would like to press before this House is that we have got certain rules made under this Ordinance. Now this Ordinance is becoming an Act and any further rules that will be made will be laid on the Table of this House and we will be entitled to consider them and to suggest modifications if we so desire. But certain rules have already been made and this House would like to know whether these rules also will be placed on the Table of the House and whether an opportunity will be given to the House to consider the rules already made and to suggest modifications if any.

These are the only two points which I wanted to press in this debate.

SHRI AMOLAKH CHAND (Uttar-Pradesh): Mr. Deputy Chairman, I had no intention to participate in the debate but while going through the Bill I could not understand as to how such a Bill could be passed as we are asked to pass. Without going into details as the two other speakers have done, I would come to the point on which I need clarification. It is pointed out to the Members of this House that we can agree to this Bill but when we see clause 3, what does it say? It says:

"For the last paragraph of the preamble and the enacting formula, the words 'Be it enacted as follows:' shall be substituted."

Now we know, as the Deputy Minister pointed out, it is an Ordinance passed in the year 1945. It continues to be the law of the country at the moment and what they want is that the last para of this preamble may be dropped and substituted by the words 'Be it enacted as follows:'. Now I would like hon. Members to look into the last para of the Preamble which says:

"NOW, THEREFORE, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935 (26 Geo. 5 c. 2) the Governor General is pleased to make and promulgate the following Ordinance."

Now as far as I could understand, what it means is that this paragraph would be substituted by the words 'Be it enacted as follows:'. If you go ahead or see the previous paragraph you find:

"AND WHEREAS an emergency has arisen which renders it necessary to make certain provision for the purpose of implementing the aforesaid Agreements."

Now if this is going to continue, is this House going to agree that the emergency which was there in the year 1945 continues even in 1959? That is one point which I would like to stress and I think the Law Ministry which has drafted this Bill ought to have sent somebody to explain how this is to be done. This is a unique procedure. You will find that in the Statement of Objects and Reasons the last line says:

"Opportunity has also been taken to convert the Ordinance into an Act."

I do not know of any provision of law by which an Ordinance can be amended by an Act but I presume that in the year 1952 both Houses of Parliament agreed to an amendment which would be apparent if you look into the schedule where it says:

"Repealed by the Repealing and Amending Act, 1952, section 2 and schedule."

5 P.M.

This is one point. Sir, whenever you bring in a Bill before the House, you say 'Be it enacted in the year' and so on, 'of the Republic' and so on and so forth. But I fail to understand why a new formula has been adopted in this case.

The second point which I would like to bring to the notice of the House is a kind of absurdity about which I could not get the relevant information and that is about clause 4—you may look into it, Sir.

MR. DEPUTY CHAIRMAN: Yes.

SHRI AMOLAKH CHAND: It is in sub-clause (ii) of clause 4 where it says:

"In clause (a), for the words, brackets and letter 'to the International Bank under paragraph (a)', the words, brackets and letters 'to the International Bank under paragraphs (a) and (c)' shall be substituted."

Now, let us see what it is going to do. If you amend the

section as has been suggested, then the result would be this, and that you will find on page 6. There you find it stated in para (b):

"any sums payable by the Central Government to the International Fund under paragraph (b) of section 8 of Article IV of the Fund Agreement,"

So far the thing is not affected. It continues:

"and to the International Bank under section 9 of Article II of the Bank Agreement."

Next, please look at the Schedule itself. On page 10 you find Part II giving us the Bank Agreement, and it begins from Article VII and not from Article II. So where is this amendment to be effected and where are these words to be substituted? That I fail to understand. Sir, I took the trouble of finding out what this Ordinance of 1945 was and is. If you look at the Ordinance of 1945 and the Schedule, you will find that Part II gives the Bank Agreement and Article VII. That also does not say anything about Article II. The point is, how can you amend a thing which is not in existence? I say this with a full sense of responsibility and I think the Law Ministry ought to have taken care about this. I find at the very beginning of the Schedule it is stated:

"Provisions of Agreements which shall have force of law".

This gave me the impression that there are two types of Agreements, one having the force of law and the other not having the force of law. Now what you want is to add from somewhere something to this provision. We do not know what it is. I think I am clear to you, Sir, because you are a lawyer and you can follow it very well and guide me as to what I should say.

AN HON. MEMBER: It is already five o'clock.

MR. DEPUTY CHAIRMAN: Yes.



**SHRI AMOLAKH CHAND:** So, Sir, I have not been able to follow this and how the Law Ministry is acting at the moment. I regret to say that unnecessarily I have wasted my time in going through all these details. And when I went through these details I was worried by certain things and the first thing that attracted me was the question as to how and under what law the Ordinance of 1945 can be amended by an Act. And what do you find here? There is nothing financial involved here, but if you want to include anything, it should be known to the House, it should be known to the Government, or there is some mistake somewhere. So I have not been able to understand what is going to be the effect of this amendment. I know it will probably be difficult for the hon. Deputy Minister to explain it and I really sympathise with her, for as far as facts are concerned, she can give us a reply. I have not gone into other points . . .

**SHRI GOPIKRISHNA VIJAVAR-GIYA (Madhya Pradesh):** Sir, it is already five o'clock.

**AN HON. MEMBER:** He can continue tomorrow.

**SHRIMATI TARKESHWARI SINHA:** But tomorrow is a holiday and we can take it up only the day after tomorrow.

**MR. DEPUTY CHAIRMAN:** Yes, we have to pass it today.

**SHRIMATI TARKESHWARI SINHA:** At least by the first it must reach . . .

**MR. DEPUTY CHAIRMAN:** Have you finished, Mr. Amolakh Chand? She will reply now.

**SHRI AMOLAKH CHAND:** Yes, let her reply. I do not want that by my speech the passage of the Bill should be delayed. That is not my intention at all. My intention is only to bring to the notice of the Government that when they bring such amendments which *prima facie* appear, if not absurd that way, at least to stand in

need of some explaining, they should explain the position.

Another point that I want to raise is this.

**MR. DEPUTY CHAIRMAN:** Have you finished?

**SHRI AMOLAKH CHAND:** Hon Members seem to be impatient and I will finish immediately.

**MR. DEPUTY CHAIRMAN:** He has raised the constitutional point as to how you can amend an Ordinance by this Bill. What is your reply?

**SHRI AMOLAKH CHAND:** As a matter of fact, I want to know how this amendment is going to affect Article II of the Bank Agreement which is not in existence at all and which has no force as a law. How can you bring it about? She may explain that.

**MR. DEPUTY CHAIRMAN:** These Agreements are entered into, I think, under certain rules framed under the Ordinance.

**SHRI AMOLAKH CHAND:** How can they?

**MR. DEPUTY CHAIRMAN:** Anyway, the Deputy Minister will reply.

**SHRI ROHIT M. DAVE:** The Agreement is there.

**SHRI H. P. SAKSENA (Uttar Pradesh):** Sir, it seems Shri Dave is in a position to explain.

**MR. DEPUTY CHAIRMAN:** Mr. Amolakh Chand, this is an existing Ordinance under article 372 of the Constitution.

**SHRI AMOLAKH CHAND:** That is all right, Sir. So much law I know, that when an Ordinance is passed in 1945 the provision was that it should continue even after six months. There I agree. But my point is . . .

**MR. DEPUTY CHAIRMAN:** Our Constitution also says that it is under this article.

SHRI AMOLAKH CHAND: I know they can continue an Ordinance under the . . .

MR. DEPUTY CHAIRMAN: And has not Parliament got the power to amend an Ordinance?

SHRI AMOLAKH CHAND: Mr. Deputy Chairman, as I pointed out, in 1952 a portion of this was repealed and what I now want to further point out is that if they wanted that this should become an Act, then they should have brought the whole thing here and . . .

MR. DEPUTY CHAIRMAN: Please look at article 372 which says:

"Notwithstanding the repeal by this Constitution of the enactments referred to in article 395 but subject to the other provisions of this Constitution, all the law in force in the territory of India immediately before the commencement of this Constitution shall continue in force therein until altered or repealed or amended by a competent Legislature or other competent authority."

And that is what they propose to do now.

SHRI AMOLAKH CHAND: As far as that is concerned, I have no objection at all. But my objection is . . .

MR. DEPUTY CHAIRMAN: Yes, the technical one that the whole Act should have been brought in.

SHRI AMOLAKH CHAND: Yes, they ought to have brought in the other provisions also. It is not the last para that we want to amend. The emergency may remain, but there can be no emergency in the year 1959.

MR. DEPUTY CHAIRMAN: All right. Let him have the reply.

SHRIMATI TARKESHWARI SINHA: Sir, the hon. Member pointed out certain constitutional points and you have replied to them. I would just

explain them a little further. As the House is aware, the Government of India Act of 1935 continued to keep in force certain provisions of the earlier Act which had been repealed by this Act automatically. Pending the establishment of the Federation, the provisions were continued as listed in the Ninth Schedule to that Act and the section relevant for the purpose is section 72 which authorises the Governor-General—to this you have made a reference—in cases of emergency to make or promulgate Ordinances for the peace and good government of British India or any part thereof and such Ordinances would have the force of law for a period of six months from their promulgation. Now, the point is, the India and Burma (Emergency Provisions) Act to which I made reference in my opening speech came into force on 23rd June, 1940 and section 72 of the Government of India Act set out in the Ninth Schedule was modified by the omission of the words "for the space of not more than six months from its promulgation".

MR. DEPUTY CHAIRMAN: It is a continuing Act.

SHRIMATI TARKESHWARI SINHA: I am coming to that point raised by the hon. Member. That is to say, the Ordinance which had the force of law for six months became no longer subject to the restriction as to time. Under section 3 of the India and Burma (Emergency Provisions) Act of 1940, the Ordinances which were to get the benefit of that Act were the Ordinances promulgated between the date of commencement of that Act, namely, 27th June, 1940 and the date on which His Majesty in the United Kingdom by order declared to be the end of the emergency which occasioned the passing of the Act, that date being the 1st of April 1946. So the emergency rule, sort of gave way in April, 1946, because there was no longer a period of emergency. The hon. Member rightly raised the point that there was now no emergency. I agree that no emergency existed and

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therefore that Ordinance automatically became an ordinary law because of this order of His Majesty.

I would also like to explain that the International Monetary Fund and Bank Ordinance, 1945, was promulgated on the 24th December, 1945, and thus the House will see that this Ordinance was within the period specified. The period ended on the 1st April, 1946. Under article 372 of the Constitution, notwithstanding the repeal of the Government of India Act, to which you have made a reference, all the laws in force continue to be in force.

Then there is this point raised by the hon. Member as to why this should continue as Ordinance and why we have not thought it fit to re-enact it. Section 72 referred to earlier was amended by section 1(3) of the India and Burma (Emergency Provisions) Act, 1940 to which also I made a reference. According to section 1(3), section 72 should, as respect ordinances made during the period specified in section 3 of that Act, have effect as if the words "for the space of not more than six months from its promulgation" were omitted. The period specified in section 3 was the period beginning with the date of the passing of the Act and ending with such date as His Majesty may, by Order in Council, declare to be the end of the emergency which was the occasion of the passing of that Act. The International Monetary Fund and Bank Ordinance was promulgated on 24th December, 1945 and was thus an Ordinance made during the period specified in section 1(3) of the India and Burma (Emergency Provisions) Act, 1940. In other words, this Ordinance was not subject to the disability ordinarily attached to the ordinances that they would have life only for six months. The Ordinance was the law of the country and it automatically continues even now as an ordinance which has got the sanction of Parliament behind it.

Bill

MR. DEPUTY CHAIRMAN: The point is this: In 1945 there was no Legislature and this was an Ordinance enacted under the Defence of India Rules. By clause 2 of the amending Bill you propose to change the word "Ordinance" into an "Act" but you retain the figures "1945". There cannot be an Act of 1945 since there was no Legislature existing then. That is your point, is it not?

SHRI AMOLAKH CHAND: Yes, Sir. The moment you say that only the word "Ordinance" is to be substituted by the word "Act" this difficulty arises and all the formalities of enacting a Bill will have to be followed.

SHRIMATI TARKESHWARI SINHA: Under the Ordinance, it was not necessary for the Government of India to come before Parliament for the original contribution.

MR. DEPUTY CHAIRMAN: Could there be an Act without there being a Parliament?

SHRIMATI TARKESHWARI SINHA: Under the Ordinance, Government was not empowered to increase the original contribution to the World Bank or Fund without taking the sanction of the Legislature. For increasing the contribution, we have come with an amending Bill. There was absolutely no need to come here so far as the original contribution was concerned.

MR. DEPUTY CHAIRMAN: You want to make it into an Act of 1945.

SHRIMATI TARKESHWARI SINHA: Yes, Sir.

MR. DEPUTY CHAIRMAN: You want to retain 1945.

SHRIMATI TARKESHWARI SINHA: That is the purpose of this Bill. It is our idea to convert that Ordinance into an Act. We took that up because of Parliament behind it.

MR. DEPUTY CHAIRMAN: I can understand it if you make it into an Act of 1959 but you are making it into an Act of 1945. How can you do that? There was no proper legislature at that time.

SHRI AKHTAR HUSAIN (Uttar Pradesh): Sir, at that time, the Government of India Act, 1935, was under suspension and all the powers vested in the Governor-General. He could issue Ordinances which would have the force of law and as they were being treated as laws, they did not require any further confirmation, by the legislature. The legislature was also under suspension during that period. It is for that purpose that that measure is still being treated as the law of the land. Even Regulation III of 1818 was treated as a law in existence and it had to be repealed specifically.

MR. DEPUTY CHAIRMAN: Nobody questions the competence of the Parliament to call it an Act of 1959 but how can there be an Act of 1945?

SHRI AKHTAR HUSAIN: There was an act or ordinance in the year 1945. That act or ordinance which had the force of law in the year 1945 was extended after the country gained independence on the 15th August, 1947. The ordinance had the force of law and, therefore, it could be modified.

SHRIMATI TARKESHWARI SINHA: We have never said, "Act of 1945".

MR. DEPUTY CHAIRMAN: In clause 2, you have said, 'for the word "Ordinance", wherever it occurs, the word "Act" shall be substituted.'

SHRIMATI TARKESHWARI SINHA: Only by this amending Bill, we want to convert that Ordinance into an Act.

MR. DEPUTY CHAIRMAN: But it will become an Act of 1945. You retain the figures "1945".

SHRIMATI TARKESHWARI SINHA: No, S. r. When this B. l. l is approved, it will become "The International Monetary Fund and Bank (Amendment) Act, 1945 passed in 1959". It will then be known as the Act of 1945.

MR. DEPUTY CHAIRMAN: But you have not substituted the figures "1945" by the figures "1959".

SHRIMATI TARKESHWARI SINHA: It is the International Monetary Fund and Bank Ordinance, 1945. I do not think this is material at all.

MR. DEPUTY CHAIRMAN: Please read clauses 1 and 2. There is a contradiction. Clause 1 says, "This Act may be called the International Monetary Fund and Bank (Amendment) Act, 1959". In clause 2 you say that the word "Ordinance" wherever it occurs shall be substituted by the word "Act" but you do not change the year.

SHRIMATI TARKESHWARI SINHA: I have no objection, Sir. If you think that this is not correct and that it should be correct here, I have no objection. I understand your point that this will become an Act of 1945.

MR. DEPUTY CHAIRMAN: Then it can't become law. It will have to go back to the other House.

SHRIMATI TARKESHWARI SINHA: It is for you to accept or not to accept my interpretation but my interpretation is that this 1945 refers only to the Ordinance. It has nothing to do with the Act as such.

MR. DEPUTY CHAIRMAN: I think it requires a little reconsideration.

SHRI AMOLAKH CHAND: There is another point, Mr. Deputy Chairman.

MR. DEPUTY CHAIRMAN: You should have re-enacted the Ordinance.

SHRI AMOLAKH CHAND: You have been pleased to read that this will become an Act of 1945 but there is another point. They have given the number of this Ordinance as 47 of 1945 and so, automatically this Act will become Act No. 47 of 1945 but in the year 1945, there was not a single Act, neither number one, two nor three. How can we say that this should become Act No. 47 of 1945? Then, Sir, the date of assent by the President would be the 24th December, 1945, when there was no President. Nothing of this sort was there then.

SARDAR RAGHBIR SINGH PANJHAZARI (Punjab): Sir, the House should be adjourned today and the Bill should be sent to the Law Minister for his opinion.

SHRI AMOLAKH CHAND: The Law Minister should come here and explain to us, Sir. There is no hurry about it.

SHRIMATI TARKESHWARI SINHA: I am in your hands, Sir. I think this point does not really matter at all because the Constitution really covers the points that have been made. We have carried over all these things in our Constitution. I do not think there is absolutely any need for going through this again but if you think ...

MR. DEPUTY CHAIRMAN: It is not a question of my thinking. I want the Government to reply.

SHRIMATI TARKESHWARI SINHA: You want to defer it, Sir, for consideration by the Law Minister? I have no objection.

SHRI AKBAR ALI KHAN: Sir, is the Government prepared to go on as it is?

SHRIMATI TARKESHWARI SINHA: Yes, I am prepared to go on as it is.

MR. DEPUTY CHAIRMAN: You are prepared to go on as it is and take the consequences?

SHRIMATI TARKESHWARI SINHA: Yes, Sir.

MR. DEPUTY CHAIRMAN: All right.

SHRI AMOLAKH CHAND: Sir, the matter has been brought to the notice of the House.

SHRI SONUSING DHANSING PATIL (Bombay): Sir, I support the point made by my hon. friend, Mr. Amolakh Chand. It is important. It appears that the word "Ordinance" is to be substituted by the word "Act". There are . . .

MR. DEPUTY CHAIRMAN: Have you obtained the opinion of the Law Minister?

SHRIMATI TARKESHWARI SINHA: I have sent for him, Sir. He will come and explain. But, Sir, I might say . . .

MR. DEPUTY CHAIRMAN: You have got some more points to reply?

SHRIMATI TARKESHWARI SINHA: Yes, Sir.

MR. DEPUTY CHAIRMAN: All right; then you finish.

SHRI B. K. P. SINHA (Bihar): I do not understand what consequences would follow if it remains as it is. Because there was no act passed; there were only ordinances in those days. And the ordinance of the pre-1950 period had the force of law. Therefore if we say that an ordinance of that time becomes an Act, the fact remains that there is no change in the effect. There cannot be any complications.

MR. DEPUTY CHAIRMAN: This Parliament has got full powers to make any amendment but that amendment should at least appear to be correct. There cannot be an Act of 1945.

SHRI B. K. P. SINHA: The point is that this Parliament is competent to enact a retrospective legislation and . . .

MR. DEPUTY CHAIRMAN: Even wrong things also?

SHRI B. K. P. SINHA: . . . we can say that this enactment will take effect from the year 1950. We can say it today.

MR. DEPUTY CHAIRMAN: Nobody disputes that point, Mr. Sinha.

SHRI B. K. P. SINHA: That is what the amendment is doing.

MR. DEPUTY CHAIRMAN: But the thing should be correct. Can there be an Act of 1945? There was no legislature. You can call it an Act of 1959; that will be perfectly correct but you cannot say 'Act of 1945' when there was no legislature.

SHRI B. K. P. SINHA: Well, these anomalies are not unknown to law. But this is an anomaly which does not produce any complication.

MR. DEPUTY CHAIRMAN: Parliament should do the correct thing.

SHRIMATI TARKESHWARI SINHA: Sir, the Deputy Law Minister will be here and . . .

SHRI AKBAR ALI KHAN: We can do it tomorrow.

MR. DEPUTY CHAIRMAN: Tomorrow is a holiday. We have to get this through.

SARDAR RAGHBIR SINGH PANJHAZARI: Why can't this Bill be referred to the Law Ministry and their opinion got? What is the harm in sending it to the Law Ministry? There is no necessity that we should pass this Bill now. There is no quorum in the House and without a quorum we cannot pass the Bill.

MR. DEPUTY CHAIRMAN: There may be other complications if this Bill is not passed today.

AN HON. MEMBER: There is no quorum in the House.

MR. DEPUTY CHAIRMAN: We will get the quorum.

SHRI AMOLAKH CHAND: I want to understand this. As far as I know, the conference in which this decision was taken was held in October 1958. The Bill has been passed by the Lok Sabha only on Saturday and it has come to our House for discussion only today. Where is the hurry about it? Where does it say that there is any hurry about it? I cannot understand it. As the revising House if we are to exercise our right and bring it to the notice of the Government that such a mistake should not be there, I think there is no justification for our passing this Bill at this moment. We could take it up again as the first item day after tomorrow.

SHRI JASPAT ROY KAPOOR (Uttar Pradesh): After all, what is the purpose of this House if we cannot point out the defects that might have crept in by oversight?

MR. DEPUTY CHAIRMAN: Can we postpone the discussion?

SHRIMATI TARKESHWARI SINHA: You can; but it was very necessary to get this done. (*Interruption.*) The House will at least give me this indulgence. May I take the House into confidence by saying that this has to be ratified on the first of next month?

MR. DEPUTY CHAIRMAN: There is plenty of time.

SHRIMATI TARKESHWARI SINHA: In case it is to be deferred, let it be done but our difficulty was that we wanted to send a letter from the Governor about the ratification. If it

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is deferred, then we shall have to cable to Washington to our Commissioner-General and get it transmitted.

MR. DEPUTY CHAIRMAN: All that I am anxious about is that the Parliament should do the correct thing.

SHRIMATI TARKESHWARI SINHA: That is true. Then you can defer it.

MR. DEPUTY CHAIRMAN: Then the discussion is postponed. The House stands adjourned till 11 A.M. day after tomorrow.

The House then adjourned at twenty-five minutes past five of the clock till eleven of the clock on Thursday, the 27th August 1959.