

Ministry of Education and Scientific Research (Department of Cultural Activities and Physical Education):—

(i) Notification S.R.O. No. 271, dated the 21st January, 1958, publishing the International Copyright Order, 1958.

(ii) Notification S.R.O. No. 272, dated the 21st January, 1958, publishing the Copyright (International Organisations) Order, 1958.

[Placed in Library. See No. LT-528/58.]

SUPPLEMENTARY DEMANDS FOR GRANTS FOR EXPENDITURE OF THE CENTRAL GOVERNMENT (EXCLUDING RAILWAYS) IN 1957-58.

SHRI B. R. BHAGAT: Sir, I beg to lay on the Table a statement showing the Supplementary Demands for Grants for Expenditure of the Central Government (Excluding Railways) in the year 1957-58.

THE INDIAN POST OFFICE (AMENDMENT) BILL, 1957

THE MINISTER OF STATE IN THE MINISTRY OF TRANSPORT AND COMMUNICATIONS (SHRI RAJ BAHADUR): Sir, I beg to move:

“That the Bill further to amend the Indian Post Office Act, 1898, be taken into consideration.”

Sir, the general purpose of the Bill is to take powers for the Post Office to intercept and destroy postal articles which are found during transmission to contain unauthorised lottery tickets or advertisements or other publicity material which will induce persons to participate in lotteries. It

will also enable the Post Office to get powers to take action to prosecute the senders of such articles. The Bill when it is made into law will, it is believed, leave no scope or possibility for such matter to be sent through the Post Office. The justification for the Bill is that instances have come to our notice where large numbers of book packets which contain unauthorised lottery tickets, advertisements and other literature pertaining to such unauthorised lotteries, have been sent. In a particular instance in the year 1955 it was found in Delhi that as many as 40 postal bags containing such book packets had to be dealt with. We referred the matter to the Deputy Commissioner that he should take appropriate action under the law. We were, however, advised by the Law Ministry on that occasion that so far as the Post Office is concerned, it can only take action under its own rules and regulations which did not empower the Post Office to intercept or destroy such articles. According to section 23 of the Indian Post Office Act, with the exception of certain articles which are detained and described under sections 19 and 20, an unauthorised article has either to be sent to the destination or it has to be returned, leaving thereby no scope for the Post Office employees to deal with such articles in the manner in which they should be dealt with. I hope there will be no difference of opinion that we should not and cannot countenance a position in which unauthorised lottery tickets and literature pertaining thereto, is allowed to be transmitted by the Post Office. The purpose of the Bill is to prevent the use of the Post Office machinery and the good offices of the Post Office to carry on or perpetuate an institution which on the face of it is a social evil. So the Bill that is before us is intended to achieve that purpose. We have powers to frame rules specifying the articles which will not be transmitted and to lay down the manner of disposal of such prohibited articles. This power vests in the Central Government but we have no

[Shri Raj Bahadur.]

power to deal with postal articles containing unauthorised lottery tickets and literature. Therefore we have got to acquire powers to deal with such articles under the Indian Post Office Act by a suitable amendment. It might be observed that we have not included in the Bill a clause to define what a lottery would be but that is not without reason. Section 294A of the Indian Penal Code is there. It was inserted by Act XXVII of 1870 which itself repealed Act V of 1844 which provided for the suppression of such lotteries. This Section of the I.P.C. gives us a good guidance. But in the popular parlance too the word 'lottery' is very well understood. It means distribution of prizes by lottery or by chance. For the benefit of the postal staff, however, the word 'lottery' has been explained in a relevant rule, rule 153 of P. and T. Manual, Vol. V. I do not think I need go into that description but for the direction and guidance of the staff concerned, there are enough instructions contained in our rules and the manner in which the authority vested in the Post Master General in respect of such articles is to be exercised is also provided in our rules, rule 68 of P. and T. Manual, Vol. VIII. Whenever action is taken in regard to such matters, it is taken with due care and caution. In regard to articles such as explosive or noxious articles and other things described in sections 19 and 20 of the Indian Post Office Act, this power has been exercised so carefully that not a single complaint has been made on this score so far. The extension of this power to unauthorised lottery tickets or literature pertaining thereto, I am sure, will also be exercised with the same care and caution as has so far been exercised in regard to those other articles, and I hope there will be no occasion for complaints. We however propose to suitably modify, alter and amend our rules on the subject to ensure that this power is not misused in the least at any time. In case a dispute arises—and this can only be when the sender claims that

a particular communication is not an unauthorised lottery ticket or literature pertaining to an unauthorised lottery and the Post Office claims that it is an unauthorised lottery ticket or literature pertaining thereto—we will provide a regular procedure to deal with the dispute. Suitable instructions will be issued that if such a dispute arises, the matter might be referred to the Law Officers of the State in which the particular Post Office is situated or if necessary it might be referred even to the Directorate which will take the advice of the Central Law Ministry, and the matter will be dealt with accordingly. The power of prosecution was also considered necessary and that also we seek to acquire through this Bill. The Bill is very simple in nature and it only seeks to plug a hole which was very necessary to stop the prevalent misuse of the postal facilities for the furtherance of unauthorised lotteries. I would therefore humbly submit that the Bill be taken into consideration.

MR. CHAIRMAN: Motion moved:

"That the Bill further to amend the Indian Post Office Act, 1898, be taken into consideration."

SHRI AMOLAKH CHAND (Uttar Pradesh): Mr. Chairman, I am thankful to you for giving me an opportunity to speak on this Bill. The Bill, as it is, is laudable and I am glad to note that the hon. Ministers are now taking interest in seeing that the postal services should be more efficient and by taking this power they would be saved from transmitting packets of lottery tickets and other obnoxious articles not back to the sender but probably to the fire. Now, the postal service is a social service and not particularly a commercial service, although the price paid by the customer is sometimes excessive according to the purse and the standard of the people in India. Anyway, we are not concerned with that. With this power I feel, as I said earlier, there would be more efficiency. Instead of this, I thought probably they would be think-

ing of relieving those addressees who unnecessarily get some literature or other in which they are not interested, but on the other hand they are penalised for receiving them. Probably the hon. Minister must have had experience of such things. Sometimes letters are sent to addressees without disclosing the name of the person who is sending them and saying therein, 'if you do not supply 25 copies of this by post to your friends, you will incur the displeasure of God.' I know hon. Members also must have had such experience and they must be receiving such things. And

12 Noon there is one thing more which

I wanted to point out on this occasion. That is, in Delhi—the hon. Minister should see when we receive local invitations—usually I find that when the function is over, then we get those invitations. Probably there might be some difficulty somewhere. I may tell the hon. Minister about a case which happened to me only two days back. My son wrote a letter from Gwalior. On the 7th at 10 A.M. it was taken out of the Post Office. And he wanted to convey that some friends were coming from there and they would stay with me. I received the letter not on Saturday. 7th was Friday. The postal mark on the letter showed that it was cleared at 10 A.M. The Punjab Mail carrying the mails ought to have brought it on the 7th evening and it ought to have been delivered on the 8th. The message was that on the 9th, Sunday, the people were coming. I received it on the 10th at about six o'clock in the evening when they had come and gone without meeting me, thinking that I was not here. Now, I would like the hon. Minister to increase the efficiency of the services with which each and every individual is concerned in this country and by doing away with such things certainly they can improve it.

Then, another thing which I would like to suggest on this occasion would be that all over the countries and particularly in India now we find that

there is educated unemployment. It was good that Sunday was declared a holiday for Post Offices and there was no work. Now, Sir, with the increasing Second Five Year Plan targets and increase in communications, I think it is the proper time when the hon. Minister should think of employing more persons and keeping the post offices run even on Sundays. That is what I have to suggest in this connection and I wholeheartedly support the Bill.

SHRI KISHEN CHAND (Andhra Pradesh): Mr. Chairman, when I read through this Bill, I came to the conclusion that of the many efforts of our Government we are going to reform the morals of our country through the post office also. I submit that the post office is a commercial concern. It does a service to the society by carrying the mails. In almost all the countries this service is undertaken by the Government, by the State, and when it becomes a State enterprise, I fail to see how the Government tries to make a distinction between the lotteries authorised by Government and the other lotteries. I cannot go into the history of the various other countries where lotteries have been allowed, for instance, the football pool. It is almost a craze in the United Kingdom. The distinction drawn between games of skill and games of chance and this type of lottery is very subtle. Now, in a football pool, for instance, every week certain football matches are held all over the country and the entrant has only to signify whether a particular team will win or will lose and huge amounts are given in the lotteries. The United Kingdom is a country with a democratic tradition of several hundreds of years and after very careful consideration they came to the conclusion that the post office should not take upon itself the responsibility of refusing to carry articles because they are related to lottery or advertisement in connection with lottery. A similar thing happened in the United States of America. I can go on enumerating the cases of

[Shri Kishen Chand.]

all democratic countries in the world where some sort of direct or indirect permission is given for the carrying of literature connected with lottery. In this indirect way our post office not only wants to refuse a large part of income—a very large part of income that it derives from carrying these mails—but goes a step further and if you read clause 3 of this Bill, a penalty is going to be imposed on a person who sends tickets of lotteries. Now, under article 23 “any postal article sent by post in contravention of the provisions of section 19 may, under the authority of the Post Master General, if necessary, be opened and destroyed; and any postal article sent by post, etc.” Then, there is this: “Whoever, in contravention of the provisions of section 19 or section 20, sends or tenders or makes over in order to be sent by post any postal article or anything, shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.” Now, under section 19, you are adding on this clause on lottery. That means, a person who sends lottery tickets or literature connected with lottery can be hauled up before a law court and can be punished with imprisonment up to one year or with fine or with both. I ask you: is it right and fair that if a person is sending lottery tickets or literature connected with lottery, we should punish him with imprisonment? I would have been satisfied, if at all this Bill is going to be passed, if at all we feel that there is a necessity for stopping the lottery tickets going through the post office, if clause 23 had stood. That means, the lottery ticket should have been destroyed. But to go a step further, not only to destroy the lottery tickets and the literature connected therewith, but to prosecute the person who has sent them, I think, is most unfair and it is against democratic traditions and democratic principles to impose such an indirect punishment on a person. I know that certain States in our country have adopted in the past the method of

offering lotteries for medical purposes. For instance, in Hyderabad State for the radium hospital they had a lottery. Of course, prizes were given. In the city of Delhi a number of shops and firms have offered prizes. You attach some coupons, etc. In the case of many industrial concerns and manufacturing concerns they put in coupons inside their products and if you take out those coupons and send them, you get some sort of presents. Now, to make a subtle distinction between lottery and lottery literature while permitting all these types of rewards for certain purchases or certain advertisements, I beg to submit that the distinction has not been properly drawn by the hon. Minister and he has not clearly and carefully defined what exactly he means by this ‘lottery’. Whether a firm advertising that they will give prizes if you interpret certain pictures, will come under this? For instance, Lever Brothers very recently advertised. There was a picture. Now, you interpret that picture and put in a sentence. They are going to give a reward. Well, the result will be that it is not going to be treated as a lottery. It is a reward; it is a prize. And the moment he calls it a prize, he will not come under this word of ‘lottery’. Therefore, I would have liked the hon. Minister to define it very clearly and give a full justification as to why a social service, the post office which is running a social service, should come in, become a moralizing force and impose upon the people of our country a certain restriction and make an improper distinction between a lottery and a reward or a lottery and a prize.

Therefore, Sir, I strongly oppose this Bill. First of all, I think there is absolutely no need for introducing it. Secondly, if at all this august House agrees with the principles of this Bill, the maximum that the hon. Minister should be permitted is that the matter should be returned to the sender or it may be destroyed. Preferably it should be returned to the

sender, because the post office must carry things unless they are dangerous things. If you do not want to deliver it, then send it back to the person, but to penalise that person and to give him imprisonment is very unfair.

Sir, I have not much to say on this Bill which is not a big bill, but it goes against the fundamental rights of every citizen of our country, and I oppose it.

श्रीमनी सावित्री निगम (उत्तर प्रदेश) :

सभापति महोदय, मैं इस इंडियन पोस्ट आफिस (अमेंडमेंट) बिल का समर्थन करने के लिये उपस्थित हुई हूँ। श्रीमन्, लाटरी या इसी प्रकार के संभ्रान्त जुए, ये सब पूँजीवाद की देन हैं। यों तो पूँजीवाद की अनेक देन हैं, जिनका दंड हमारा समाज—हमारा समाज ही नहीं बल्कि विश्व का समाज—अनेक रूप से भुगत रहा है। एक ओर अत्यधिक अमीरी और दूसरी ओर दयनीय दुर्दशा। उस को बनाये रखने के लिये अनेकानेक प्रकार के इंड्रीगिंग और चमत्कारिक प्रयत्न, जोकि शोषकों ने कर रखे हैं, उनमें से स्वयं लाटरी भी एक है।

श्रीमन्, होता क्या है? अगर हम जितनी भी लाटरीज हैं विशेष रूप से अनअथोराइज्ड किस्म की जो लाटरीज हैं, उनके इंस्टीट्यूशंस में जा कर गहराई से देखें, तो हमें पता चलेगा कि ये लोग आर्गोनाइज्ड ढंग से लोगों को धोखा देने और ठगने का एक बहुत बड़ा व्यापार सा करते हैं। सैकड़ों आदमी उस व्यापार के नीचे तरह तरह के नामों से तरह तरह के कामों से पलते रहते हैं। वे भोले भाले व्यक्ति जोकि सोचते हैं कि हम लाटरी में पैसा लगायेंगे तो शायद हमारे नाम से लाटरी निकल आये, लाखों की तादाद में ठगे जाते हैं। उन की गाड़ी कमाई का पैसा वहां जाता है। और वे लोग तरह तरह के बहानों से और तरह तरह की नोकरियों को क्लिएट कर के बड़ी बड़ी रकमें खा जाते हैं और जो एक हिस्सा प्राइज विनर्स को

मिलता भी है, उसमें भी अधिकतर यही होता है—चाहे वह क्लासवर्ड हो या लाटरी हो—कि उनके ही किसी रिस्तेदार या नातेदार या बोगस कम्पनियों के जो बड़े बड़े साक्षीदार होते हैं, उनके नाम से लाटरी निकल आती है। श्रीमन्, यह गांधी और लार्ड बुद्ध को परम्परा के देश के लिये एक बड़ी हो शर्मनाक बात थी कि अब तक इस प्रकार की लाटरी और इस प्रकार के संयोजित जुए को बन्द नहीं किया गया था। मैं मिनिस्टर महोदय को मुबारकबाद देती हूँ, जिन्होंने कि इस अमेंडमेंट बिल को पाइलट किया है और यह अमेंडमेंट बिल लाये हैं और मैं इनको यह विश्वास दिलाती हूँ कि मैं हूँ नहीं, बल्कि देश के सैकड़ों-हजारों लोग जोकि देश का नैतिक स्तर ऊँचा उठाना चाहते हैं, इस विधेयक का पूरी तरह से समर्थन करेंगे। मैं स्वयं हमेशा आश्चर्य किया करती थी कि इस प्रकार के नाजायज़ जुए में अनुचित जुा में, जिसमें भले लोग ठगे जायें, गवर्नमेंट क्यों पार्टी बनती है, क्यों पोस्टआफिस के जरिये से ये लाटरियां भेजी जाती हैं और इन का तमाम साहित्य बराबर आता है। हमारे देश में यहां की ही नहीं, बल्कि विदेशों की भी अनअथोराइज्ड लाटरीज का गांवों गांवों में बड़े ज़ोरों का प्रचार है। यहां के गांवों में पंच-वर्षीय योजना के प्रचार के कागज़ नहीं पहुंचते यहां के गांवों में और अच्छी बातें जो लोग जानना चाहते हैं वे नहीं जाने पाते हैं, लेकिन आप देख लीजिये कि छोटे छोटे गांवों में भी ऐसे ढंग से आर्गोनाइज्ड लाइंस पर इन लाटरियों के टिकट बिक रहे हैं। भोले भाले लोग जिन को कि दोनों जून, दोनों वक्त रोटी भी नहीं मिलती है, इस लालच में कि ओवरनाइट लखपति बन जायें अपना रुपया बर्बाद करते हैं और नतीजा यह होता है कि उन्हें लाटरी कभी नहीं मिलती है और न कभी मिलने वालो है और वे मुफ्त में इस प्रकार से ठगे जाते हैं। तो जब हम इस चीज़ को मानते हैं और नैतिकता

[श्रीमती सावित्री निगम]

पर विश्वास करते हैं, पंचशील की नीति हमारे देश की नीति है और हम विश्व के तमाम देशों में उसके प्रवर्तक हैं तब हम अपने देश में एक ऐसी बेईमानीपूर्ण संस्था को कैसे पनपने दे सकते हैं। मैं नहीं समझ सकती कि इसका कोई भी विरोध करेगा और मुझे आश्चर्य हुआ है कि श्री किशन चन्द जी ने जो कि इतने विद्वान् और समझदार हैं, कैसे लाटरो का समर्थन किया। जिन डेमोक्रेटिक देशों की उन्होंने चर्चा की है उनका रहन सहन, उनका कल्चर, उनकी परम्परायें हमारे देश से बिल्कुल विरुद्ध हैं। उन देशों में तो बहुत सी ऐसी बातें हैं जिनको कि हमारे यहां लोग स्वप्न में भी सोचना या करना पसन्द नहीं करेंगे। उन विदेशों की परम्परा पर हमारा यह गांधीवादी देश, बुद्ध की परम्परा का हमारा यह देश जाये और उनको देख कर हम उनका अनुकरण करें, यह हम लोगों के लिये एक बड़ी सोचनीय और शर्मनाक बात होगी।

आज मुझे यह पता चलता है कि पोस्ट आफिस के सामने भी कुछ दिक्कतें थीं और इसीलिये इस चीज को वह रोक नहीं सकता था। इसलिये मैं इस अमेंडमेंट बिल का पूरा स्वागत करती हूँ।

श्रीमन्, यह एक बहुत बड़ी कुरीति है। हमारे मिनिस्टर महोदय तो थोड़ा ही आगे गये हैं। उन्होंने अथोराइज्ड लाटरी को अभी भी माना है। मैं उनसे निवेदन करूंगी कि अथोराइज्ड हों या अनअथोराइज्ड हों, सब लाटरियां अथोराइज्ड लाटरियां भी पूंजीवादी युग की ही देन हैं और अथोराइज्ड लाटरियां भी एक आर्थिक विषमता पैदा करती हैं जिसको रोकने के लिये ही हम इतने तमाम स्टेट इयूटी बिल और तमाम नये नये विधेयक ला रहे हैं। तो जब हम एक समाजवादी देश में समाजवादी समाज का ढांचा बनाना चाहते हैं और जब हम उससे एक प्रकार से बद्ध हो चुके हैं,

बन्ध चुके हैं, तब उस समय अथोराइज्ड लाटरी को भी बन्द कर देने में ही हमारे देश की बड़ी शान है और हमारा बड़ा कल्याण है। मैं उनसे प्रार्थना करूंगी कि इस बिल में एक अमेंडमेंट लाकर अथोराइज्ड लाटरी को भी बन्द कर दें। कोई आवश्यकता नहीं है कि कोई बिना कमाये हुए, बिना परिश्रम से कमाये हुए, बिना शारीरिक श्रम से कमाये हुए धन से अपने को सम्पन्न बनाने का एक सरकारी सहमति प्राप्त मार्ग भी समाज में बनाये रखा जाये क्योंकि जब हम एक ऐसा एवेन्यू क्रिएट कर देंगे, तो लोग सोचेंगे कि जब सरकारी सहमति प्राप्त एक ढंग है तो गैर-सरकारी सहमति-प्राप्त ढंगों से भी क्यों न अपना काम चलाये। इस तरह उनको अपना काम चलाने में बड़ी सुविधा मिल जायेगी। इसलिये मैं यह प्रार्थना करूंगी कि इसमें अथोराइज्ड और अनअथोराइज्ड दोनों के अन्तर को मिटा कर लाटरी के पूरे सिस्टम को जिससे कि सिवाय इसके कि आर्थिक विषमता होती हो कुछ लोग निर्धन होते जायें और कुछ लोग अमीर बनते जायें और कुछ न होता हो बिल्कुल ही खत्म कर देना चाहिये।

अभी श्री किशन चन्द महोदय ने कहा कि जो लाटरिज हैं, अगर इनको रोकना भी चाहते हैं तो फिर सजा देने की क्या जरूरत है। जब हम एक बार यह स्वीकार करते हैं कि यह चीज नाजायज है, अनुचित है, यह धोखाधड़ी है, इससे बेईमानी फलती है, इस तरह के इंस्टी-ट्यूशन से लोगों को ठगा जाता है तो फिर उसके लिये सजा देने में क्या बुराई है। अगर हम दंड-विधान को बिल्कुल बदलने जा रहे हैं, तब तो दूसरी बात है लेकिन जब पीनेल कोड दंड-विधान बना हुआ है, प्रिजंस बने हुए हैं, तो फिर हम ऐसी सामाजिक कुरीति को, ऐसे अपराध को एक हाफ-हार्टेड वे में नहीं रोक सकते हैं। अगर हमने यह स्वीकार किया है कि यह चीज अनुचित है तो फिर क्या जरूरत है कि पोस्ट आफिस में एक बड़ी भारी मशीनरी इसलिये रखें कि जब पकड़ा जाये

तब ही रोका जाये, नहीं तो खुली छट मिल जाये। तो यह बहुत अच्छा किया गया है कि इसको दंड के योग्य बनाया गया है और यह कहा गया है कि उनको सजा भी दी जा सकेगी। जब हम यह स्वीकार कर चुके हैं कि यह चीज गलत है तो फिर अगर उसके लिये दंड की व्यवस्था रखी गई है, तो वह किसी प्रकार से अनुचित नहीं है।

मैं एक बार फिर मिनिस्टर महोदय को, जिन्होंने इस विधेयक को, इस अमेंडमेंट बिल को पाइलट किया है और यह विधेयक, यह अमेंडमेंट बिल लाये हैं, मुबारकबाद देते हुए इस विधेयक का हार्दिक समर्थन करती हूँ।

SHRI B. K. MUKERJEE (Uttar Pradesh): Mr. Chairman, this Bill seems to be a very simple one, and although I agree with the aim of bringing forward this legislation, I have got some doubts in my mind whether we can achieve the aim by incorporating this provision in the principal Act. The postal service is a public utility service, but nevertheless, it is a commercial concern. The House will probably agree with me that this is the only Department in respect of which the Government can claim to be getting public sympathies for its efficiency. But it seems we are now creating—I have got a doubt in my mind—a hole for inefficiency to creep in into this efficient department. At the end of his speech while introducing the Bill the hon. Minister said that he wanted to plug the hole against social evil. But I feel he is creating a plug against more revenues being earned for which this Department hankers. The Bill says that "No person shall send by post . . ." The condition now prevailing is that anybody can send those articles by post on payment of postal charges, but if they are detected, the articles will be sent back to the sender. The man before taking any service from the postal department pays the necessary charges for the service which he

wants. I do not want the Department to deprive those people of that service. This Bill says that they cannot send such articles and cannot use the postal department.

Now, there are other defects also in this Bill. It is not that the people will not use this postal department for sending anything in regard to lotteries. Lotteries have been divided into two sections, one authorised and another unauthorised. But if the postal department feels that it is going to plug the hole against some social evil, in that case, it has also got to agree that irrespective of the fact whether the lottery is authorised or unauthorised, it is a social evil, and therefore that hole must be plugged against that social evil as a whole. The postal department should not and cannot distinguish whether a lottery is authorised or unauthorised. Then again, Sir, with regard to the departmental servants, it may be the lowest man in the department who may have to exercise his discretion whether a particular lottery is authorised or unauthorised, and he may commit a mistake when he is given that chance to exercise his own discretion. Therefore if they want to deal with this evil, they have got to ban it altogether whether authorised or unauthorised. According to me, the present system is better that anybody can post any article by payment of the regular charges, and when it is detected, they deal with it—they send it to the sender. Some time back, Sir, there were several bundles or bags of literature which came in the post office and they were forwarded to the District Magistrate. For the preservation of law and order, this postal department is not the authority in the country. There are other departments, i.e. the Home Department or the District Magistrate, and they are to maintain law and order.

[MR. DEPUTY CHAIRMAN in the Chair.]

If lotteries are irregular in law, action must be taken by the District Magistrate, and I will, therefore,

[Shri B. K. Mukerjee.]

suggest that the Bill should be so amended as to make a provision that whenever these articles are detected as unauthorised, they must be forwarded to the District Magistrate instead of being destroyed by the postal department, and the District Magistrate, in his own discretion will decide whether they are to be destroyed or they are to be sent back to the sender. This is my suggestion. I am very much worried about this point. By this Bill we will plug some chances of the revenue coming to the department. As I said, it is a commercial department. They sell their services to anybody who wants them, and we must not prevent anybody from requisitioning the services of this department. Everybody must be allowed, as at present, to send articles by post on payment of regular charges to the department. I do not think the Ministry or the Government will be justified in preventing more revenue coming to this department. Therefore I suggest that let them post articles, but if any unauthorised articles are detected, they must be sent to the District Magistrate who can take the necessary action to destroy those things, and who can also take other legal action against those people who sponsor such lotteries against the law of the land. Therefore, if we want to plug the hole against this social evil, the District Magistrate has got to come in the picture to take action against those people who send literature pertaining to unauthorised lotteries by post. I shall therefore request the hon. Minister to reconsider the draft of the Bill and make suitable amendments before this House passes this Bill.

SHRI MAHESH SARAN (Bihar): Mr. Deputy Chairman, this Bill will be supported by everybody. Of that I am sure. But I do feel that there will be some difficulty in the working of this Bill. Now the distinction that has been drawn between the authoris-

ed and unauthorised lotteries will stand in the way of the efficient working of this amendment that is being proposed. My submission is there may be certain mistakes which may occur when a letter is being destroyed. Now according to section 23—

“Notwithstanding anything in subsection (1)—

(a) any postal article sent by post in contravention of the provisions of section 19 may, under the authority of the Post Master General, if necessary, be opened and destroyed; and

(b) any postal article sent by post in contravention of the provisions of section 20 may be disposed of in such manner as the Central Government may by rule direct.”

What we find is that this practice of sending unauthorised lottery tickets is very very common and we find such practices being resorted to by many people, and letters are sent to the villages and other places. Now the proposition that all these letters should be sent to the Post Master General and that he should look into them. I think is rather a very tedious and cumbersome process. So my submission is that if you remove the words ‘authorised’ and ‘unauthorised’, the difficulty will vanish. Otherwise there will be serious difficulty in the working of this amendment. I certainly feel that this is a very useful amendment, but all the same, there is this little difficulty in its working, and I hope the hon. Minister will take this point into consideration.

DR. W. S. BARLINGAY (Bombay): Mr. Deputy Chairman, so far as the object of this Bill is concerned, there is no difficulty at all. Most of us would be entirely in agreement with the objects of the Bill. But although I must confess that I have not had much time to study the legal aspect

of the various questions involved in this Bill, I am inclined to think that there are certain constitutional difficulties in the way of this Bill. I wish to point out those Constitutional difficulties for whatever they may be worth. I don't say that these are insuperable or that I am right in my contentions but I do feel that I should place these difficulties before this House and the hon. Minister in order that he may be in a position to reply to them. The Minister will kindly observe that the original Indian Post Office Act was enacted as early as 1898 and at that time the present Constitution of India had not come into force. At that time Section 23 of the Original Act was perfectly all right because the Constitution such as we have today, giving fundamental rights to the citizens of this country—that sort of Constitution, did not exist then but how that we have the Constitution, it does appear to me *prima facie* at any rate,—I speak again subject to correction—that what we are trying to do under the Amending Bill, I shall say even under the original Section—is probably *ultra vires* of the Constitution. I would say this that although I have not the slightest sympathy for any persons who indulge in the business of lottery, nonetheless it appears to me that it is one thing to make that sort of business illegal or contrary to public policy and quite another thing to involve the post office in that whole affair. What I wish to suggest is that if you want to prevent lotteries or to put impediments in the way of persons who deal in lotteries, the State is perfectly entitled to do so and they would be perfectly within their rights but as far as I know, we have not enacted any such law. All lotteries are not illegal or unlawful and therefore where lotteries are not illegal or unlawful in any way, I doubt very much whether in those circumstances, it would be possible to enact the kind of law that is sought to be placed before us. I would, in this connection, say that once you admit that it is not unlawful to deal in lotteries, it seems that when

you make a restriction on the transmission of advertisement or any papers relating to a lottery by post office, you are infringing the right of personal freedom that a citizen enjoys in this country. I must admit that I have not yet gone through the various articles of this part III of the Constitution of India with a view to see under which exact provision my objection would lie. But I am persuaded that it does infringe some fundamental right or the other.

MR. DEPUTY CHAIRMAN: I think the Central Act was passed last year regulating betting and lotteries.

DR. W. S. BARLINGAY: Granting that, that makes no difference to my argument because that law itself may be *ultra vires* of the Constitution.

Apart from this, I wish to point out other difficulties of a practical nature. The Statement of Objects and Reasons reads like this:

“The increase in the number of such postal articles renders it necessary that postal authorities should be empowered to destroy such articles in the same manner as certain other objectionable articles are destroyed under section 23.”

What I say is, when you have not made lotteries themselves illegal or unlawful in any way, it seems that . . .

MR. DEPUTY CHAIRMAN: There is a Central Act and it went to the Supreme Court who held that lottery is betting and so your objection will not hold much water. Government has taken powers and there is a Central Act.

SHRI RAJ BAHADUR: I would deal with that later.

MR. DEPUTY CHAIRMAN: He will explain the position.

SHRI AMOLAKH CHAND: May I know if the lottery is not defined in the I.P.C. somewhere?

SHRI RAJ BAHADUR: I will explain the position later.

DR. W. S. BARLINGAY: Is it not true that Government, in certain cases, does give licences for lotteries?

MR. DEPUTY CHAIRMAN: Then that will be an authorised lottery. That is what it provides for.

DR. W. S. BARLINGAY: Here the clause reads:

"No person shall send by post—

(a) any ticket, proposal or advertisement relating to a lottery."

It does not say 'to an authorised lottery.'

MR. DEPUTY CHAIRMAN: Read the explanation.

DR. W. S. BARLINGAY: I am sorry.

MR. DEPUTY CHAIRMAN: So all this argument practically carries you nowhere.

DR. W. S. BARLINGAY: Apart from what the hon. Minister will say, I feel that this is *prima facie* against the provisions of the Constitution.

SHRI AKBAR ALI KHAN (Andhra Pradesh): Mr. Deputy Chairman, the amendment is very specific and it relates to granting of powers to postal authorities to destroy certain things instead of directing them back to the sender or to the person in whose name it has to be delivered. I feel on that particular point also, that it is too much authority that will be conferred on the postal authority and it will be a great responsibility and I am afraid

that it would be a great liability. I feel that in such matters, when the post office, as pointed out by my friend Shri Kishen Chand, is more or less a business concern, it has to be dealt with as such and if there is anything that comes in to infringe any general law, it is better that it should be entrusted to some magistrate or some other authority. Otherwise, this provision if amended to give authority to post office, might lead to many complications and the post office may be involved in litigation.

So far the object—and the object is taken for granted by the belief that lottery is a bad thing—is concerned, I question that object itself to a great extent. Let us be clear and I think that it is for the Government and the Home Ministry to take a very serious view of the whole situation and say what would be the policy of the Government so far as the lottery is concerned. For instance, these races go on because nobody objects to such incomes. In certain cases these lotteries may be for laudable objects. I know that in my place one Cancer Hospital was established due to the fact that a lottery was run and the whole income was given to that hospital otherwise, the hospital would not have been established. The other day when I went to the Post Office, a gentleman was sitting there selling Orissa Government Lottery tickets and I know when the Andhra Government moved in the matter for some laudable purpose, the Central Government was not pleased to sanction it. So I feel that this very idea that lotteries are bad, is to be uniformly applied and a uniform policy of the Government will have to be adopted. It is not right that a piecemeal or indirect approach should be made to this question of lotteries and it looks very ridiculous to speak of authorised and unauthorised lotteries. If lotteries are bad, then they are bad, it cannot be that if the Government gives it its blessings then it is a good thing and if the Government does not give it its blessings, then it is a bad thing.

That also, I submit, Sir, is a matter which deserves consideration.

In this connection, so far as this Bill is concerned, I would strongly request the hon. Minister concerned to see that this liability that I referred to which is a very serious liability—is not accepted by this Department which is a commercial Department.

SHRI SONUSING DHANSING PATIL (Bombay): Mr. Deputy Chairman, I have a few remarks to make in connection with this Bill. I am one of those who hold that the object of this Bill is a most laudable one, though in the actual execution of its provisions there will be some practical difficulties, as has been pointed out by several hon. Members. This is one of the most sincere attempts on the part of Government to bring within the purview of prohibition, certain social evils which are rampant in the postal service. Sir, one cannot forget that there are certain fundamental vices which are both universal in their application and most difficult to tackle. For example, gambling, prostitution, drinking and avarice. These are supposed to be the universal and fundamental vices of human beings and if no salutary check is exercised on these evils, society cannot function and when the tempo of these fundamental vices goes beyond the normal working, then society is jeopardised. For this purpose, society feels the necessity for putting a salutary curb on these vices and this Bill is an attempt to curb a social evil which is akin to gambling. Lotteries which are unauthorised are functioning in this country in one form or the other. One of the commonest features in the urban and semi-urban areas is what we call or know as American features. Of course, I do not know much of the speculative side of it, but this evil is very rampant and the postal service is the normal channel for the propagation of and for supplying information on the various sides of this evil. I am not sure whether

the particular sort of evil which spreads out in different forms can be checked under clause 2 of this Bill even though it is wide enough. Sub-clause (b) covers "any other matter descriptive of, or otherwise relating to, a lottery, which is calculated to act as an inducement to persons to participate in that lottery." I would like to know whether this definition is wide enough to embrace within its fold the various sorts of gambling practices which are going on in the country and which are communicated through the postal service. If they can be checked, then I would say this Bill would have served the desired object.

These social evils are wide-spread and they eat into very vitals of society and this is a small attempt to authorise the Postal Department to destroy this kind of literature when it comes to their notice and this is something which is expected of that service which is primarily concerned.

The question is, if the sender is going to be punished, if there are spurious senders, or if there are faked names, what happens? That difficulty will arise and for the purpose of solving that, will the Postal Department on its own be capable of going into those legal complications? That is a matter for consideration and whether for that purpose the Postal Department will have the legal advice which is so essential. What happens if the sender is not found or he is an anonymous person or a wrong name is given, or if somebody through enmity or malice, gives the name of a respectable person? That trouble will arise and for the purpose of dealing with that, unless and until there are special powers in the Bill, it will not be possible to check. So the implementation part of these provisions will be most difficult, according to me. Though these power are necessary, the various implications of those powers have to be seriously gone into. Now that the Postal Act is going to be amended after such a long time, is it not essential to consider the various

[Shri Sonusing Dhansing Patil.]

aspects of this gambling or the practices akin to gambling? And for that purpose it will be a good thing if ample opportunity is given either to this House or to the other House or even to both Houses jointly and if the Bill is circulated for public opinion so that Government will be in a position to know all sides of these gambling practices. According to me, there is no special hurry about this Bill going through, because the evil has been going on for several years and a delay of a few months is not going to matter much. We will get all the information and we may not have to bring in an amending Bill. It has been frequently commented upon by the public outside and even by judges that India in its enthusiasm is passing Bills in great hurry ignoring the practical side of various sections and their effects and this is a common criticism levelled against legislators and we as legislators must take serious note of it. When a Bill like the present one is being considered, why can't we take into consideration the various aspects of this question which confront us in everyday life? In one part of the country, say in Bombay, American features may be a common phenomenon and in other States it may be something else. So we should collect all the information about the practices which are prevalent and about lotteries which are unauthorised. It will only be in the fitness of things if we consider all that.

As far as the legal point raised by Dr. Barlingay is concerned, which he himself has answered in a way, I do not think that is one of the fundamental rights to which we can refer.

SHRI AMOLAKH CHAND: May I know from the hon. Member what is his suggestion? Is it his suggestion that this Bill should be dropped now and a comprehensive amending Bill brought forward, amending the Postal Act? What is he driving at?

SHRI KISHEN CHAND: Reference to a joint select committee.

SHRI SONUSING DHANSING PATIL: My point is that practices which are descriptive of or akin to lottery and which are not authorised and which go into the very fundamentals of social evils, should be considered together and collectively and the data can be collected. It may be done. That is my suggestion.

I think I should have been clear to the hon. friend who has raised this objection. I think this is a small Bill and this does not require much of a discussion. The object, as I stated earlier, is a most laudable one but whether it would be possible to implement it is a question to be seen. In view of certain observations that I have made, I feel this Bill is a necessity of the day. In the civilised society we are living in and in view of the various marches and advances we are having in India as far as social legislation is concerned. I think it is necessary that the Post Office should have this power and authority. For all these reasons, I support the Bill.

DR. R. P. DUBE (Madhya Pradesh): Mr. Deputy Chairman, before I say anything in regard to this Bill, I have to submit that it is high time we revised the whole Bill. It is sixty years old and contains only 77 sections. It is high time this Act was modernised. I think I am carrying the previous speaker with me on this point. Instead of pushing this Bill to a Select Committee and adding a few more sections, it is better to amend the whole Act. I think that would be in tune with the modern conditions.

In regard to the Bill before us, there are certain things that have not been clear to me. I do not know about the others; they may have understood the provisions but I have not. In the annexure, there is some talk about the rules. What are these rules and

where are they? I did not find them even in the Parliament Library. They may be somewhere in the Secretariat.

SHRI AMOLAKH CHAND: The Parliament Library has not got it. I also tried this morning.

DR. R. P. DUBE: I would like to know what are the measures that have been taken and how many prosecutions have been launched by the Government under rule 61. I am talking about rule 61, the penalty for contravention, etc. I would like to know from the Government as to how many people have been prosecuted. This Bill only talks about banning the lotteries but what about the other indecent things that come through the Post, indecent literature, sex and crime literature, objectionable advertisements by the quacks, etc., literature which I think should be destroyed? I have had a letter, and I think I have had too many, in which they say, "twenty letters of this type should be distributed, hundred letters should be distributed otherwise the penalty is that you will die, etc." Those are the type of things that come and should we not do something? If you had not opened up this topic, I would not have said anything but when you want to do something, please do it properly. Don't do things half-heartedly. The hon. Minister is a young man and a progressive young man and he should be able to do things better.

There is one more thing that I would like to say. It is perfectly all right that people should have holidays but I am sure on account of the large unemployment amongst the educated that we have, people will bless the Government if it can have at least one delivery for Sunday as it used to be the case formerly. As it is, letters and invitations are received after the function is over. I think there has of late been increase in the men employed in the Post Offices and it is not as if the work is too much or that they

cannot reach in time for the work. I do not know whether that is true or not in all cases, but sometimes you get letters after the function is over. Why not have one delivery for Sunday? It will not mean that the postal people will be deprived of their holiday. You need not have the same set of people every Sunday. You can so arrange that one section works on one Sunday and gets off for the other Sunday as is done in other Departments. I need not take the time of the House any longer but I will again request the Minister to see whether he cannot, if not during this session at least in the next Session, bring forward a comprehensive Bill dealing with the various other Sections and taking into account the various objections that the Members have got and the suggestions that they have made

DR. P. V. KANE (Nominated): Mr. Deputy Chairman, I want to place one point against this Bill. This gives power to the Post Offices to destroy an article. The Post Office is only a carrier, particularly a carrier for a fee and to that body you are going to give powers of destruction of a man's property without any controlling influence of the owner and that will be against the fundamental rights of a man. You can acquire property by law but you cannot destroy it. Suppose tomorrow, after this Bill has been enacted, the Post Office destroys an article of mine, I can file a suit for damages saying that the whole Act is *ultra vires* of the Constitution. It deprives me of my fundamental right to property, especially as the Post Office is only a carrier. That aspect of the case should be very carefully considered again. Here, it is a question of lottery and non-lottery. If certain things are authorised by Government, it becomes moral and if they are not authorised, then it becomes immoral. The whole basis of morality is taken away. Government should make up its mind and say whether they will allow any kind of lottery or not and if they decide that they will allow a lottery, then they

[Dr. P. V. Kane.]

should pass an Act saying that a lottery will be allowed under the following conditions. Some such condition should be there. That is a larger aspect but at present I am on this particular aspect, namely, whether the Post Office can destroy an article. Return the thing to the owner. That is understandable. If you return the property to a man, it is understandable but here you destroy it. There is a law empowering the Government to acquire property by means of payment of money or compensation. That is another thing but here the Post Office, as I said earlier, will be given these powers to destroy a thing of which they are not the owners. That is my difficulty and I think lots of cases might come up where the Post Office might be prosecuted, I mean not prosecution in a criminal court but in a civil court for damages. Post Office means what? Even a peon will do it. Suppose a clerk finds that this contains such and such thing, he will destroy it. That will have to be very carefully considered.

DR. W. S. BARLINGAY: That is not the case. The Post Master General is there . . .

DR. P. V. KANE: It is under the authority of the Post Master General all right but still, the man concerned will recommend that the thing should be destroyed and we know how official business is carried on. The Post Master General is the highest officer of the Department and he will do what is suggested. That is only a camouflage and there is no use saying that the Post Master General is there. Let there be a Magistrate or a Civil Court and then I can understand. The Post Master General is after all an officer of the Postal Department. I am only suggesting that the Minister in charge might carefully consider this aspect as to whether legally you have got the power under the Constitution to destroy an article while you are only an agent.

SHRIMATI AMMU SWAMINADHAN (Madras): There is only one point I want to speak on. While agreeing with some of the other speakers who said that this has to be modernised as it is a very old Bill, there is this question about destroying articles by the Post Office authorities. I think that is a very dangerous power to give because, if they are to destroy, they have to open certain letters. Unless they open the letters, how can they know what they contain? I think the hon. Minister will agree that allowing the Post Office to destroy certain letters is not at all a safe thing to do because, after all, people send all kinds of things through the Post Office. If the lottery is to be made illegal, certainly make it illegal by all means but do not say that the Post Office should be allowed the power to open certain letters because they may contain illegal publications. I feel and feel very strongly that it is not right to ask the Post Office to destroy any papers which belong to private individuals, as the previous speaker said. After all, we have got certain rights about certain things and if we know that some of our letters are going to be destroyed, I think it is going to be very difficult. Even to open up a letter is bad. Even as it is, I am sorry to say that often letters do not reach the people. The stamps from foreign letters are taken away by the stamp collectors in the Post Office. All this kind of things are done and if this power is also given, it would be a rather dangerous thing. I hope the Minister will consider this question fully and not give this power to the Post Offices.

MR. DEPUTY CHAIRMAN: The Minister will reply after lunch.

The House stands adjourned till 2-30 P.M.

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

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

SHRIMATI T. NALLAMUTHU RAMAMURTI (Madras): Sir, with regard to this Bill, the Indian Post Office (Amendment) Bill, I have only one or two points to make. One thing I find in this amending Bill is that it is really catching the tail instead of holding the head, as it were. All questions relating to such matters as have been dealt with in this Bill and other like questions should have been brought forward in a central piece of legislation to bring together everything that comes within the scope of, and anything that the post office wishes to do with regard to, its functioning in society. I find that many of these clauses should naturally go into quite a different type of legislation that should be undertaken by the Central Government.

With regard to 'lotteries' the Statement of Objects and Reasons says, "to destroy such articles" etc. Whether authorised or unauthorised, I should have thought that all lotteries would be banned. As magistrates of a juvenile court we had taken to task little juveniles coming to the court for the offence of bidding in the cotton market, that is, betting, and any kind of thing that makes them feel that they can have something for nothing. 'Lotteries' is one. Either the Government is trying to promote the moral well-being of a people or it is non-moral. How could some things be authorised, some lotteries authorised and some unauthorised? So, that differentiation is understandable in a society that is having as its objective the highest moral standard of the people of our country. That is number one.

No. two, I agree with my sister and I stand to tremble at the idea—I am not calling it a Fundamental Right. It is a novel term that we have start-

ed using since constitution-making had become the vogue of many countries—I feel that any private individual has a right to send a letter to another person with the fullest belief and faith that that letter would be a closed document except for the person who receives that communication, and I cannot understand how an intermediary channel can tamper with such sacred documents. I think they are sacred because it concerns me only, the party that is going to write the letter. Therefore I feel that this Bill would make people lose confidence in the institution that is to act as merely a channel.

SHRI AKBAR ALI KHAN: All romance will also finish, Sir. If this thing will go on, all romance will finish.

SHRIMATI T. NALLAMUTHU RAMAMURTI: Well, I am not thinking of romance. I know some of my brothers had been talking when my sister was speaking, "Oh, she does not want love letters to be opened and seen." I mean, it is not just that. Even gentlemen can write love letters. There cannot be love letters from one end only. They are between two sexes. And why should any emphasis be placed on love letters alone? It may be any letter such as a letter containing any instruction given, like Lord Chesterfield's letter to his son? He expects his son to read his letters and not a postal peon or any kind of intermediary authority. That is sacred to him. My ideas are sacred to me in so far as I want to divulge all these ideas only to the party to whom I am communicating them. This is the whole basis of insistence on individual rights.

I think this is a trespass on individual rights to allow an intermediary authority to interfere with such communications.

Some persons had remarked that so much money had been collected

[Shrimati T. Nallamuthu Ramamurti.]

and it had been donated to a worthy cause. There is a proverb in Tamil, "Noi vitha kasu koraikkuma?" (The cash that had been obtained by the sale of a dog, will it begin to bark?) But we are not to apply such terms where moral considerations are paramount. I do not like it. Why should we pass legislation about drinking, about prohibition? It is because we wanted to raise the standard of performance of a society on the moral plane. And that argument holds good for all kinds of evils, lottery and betting and gambling, anything that **makes** one person want to secure an income without having actually worked for it, and as such I would not advise any kind of lottery to be allowed by Government however much the gain ultimately might be. We should also guarantee the means that serve the ends, and if the means are bad, I think we should give up the ends. I hope that is the kind of ideal we are living for, not only in internal politics but also in external affairs. We are asking other Governments to come into line with certain very high principles in life. Therefore our method of approach to our way of life also should conform to that.

Some gentlemen over there—I was shocked to hear that, Sir,—were referring to certain things as Fundamental Rights and they asked, "How could this Post Office Bill go against such Fundamental Rights?" And a Member mentioned prostitution. I ask this House whether anyone here, standing up for Fundamental Rights, could ask for a provision in order to perpetuate that kind of, I would say, criminal setback in all that is good in human endeavour and human nature. Therefore I don't bring in that kind of a thing; I think it is a perverted way of applying Fundamental Rights to questions that concern character.

Having said all this, Sir, I would appeal to the Minister who has taken the trouble to bring forward this legislation that he will guard against

trespass on individual rights. He should also see the way of not making a discrimination about Government-authorised lotteries and unauthorised lotteries. I do not know where the line is going to be drawn. He should see that the Post Office Act enacted as far back as 1898 is brought into line with modern requirements and a comprehensive piece of legislation enacted with that end in view. Let not the postal department be made the scapegoat of certain policies which ought to have found a place in some other central legislation of a more comprehensive kind dealing with all such evils as lotteries, gambling, etc.

Thank you very much.

SHAH MOHAMAD UMAR (Bihar):

Sir, I am simply inspired by my friends in this House to express myself on certain aspects of this amending Bill. While I wholeheartedly support this amending Bill, let me express myself very plainly to you that I do not see much wisdom behind the provisions in this amending Bill. There are so many factors, there are so many problems involving the postal system which require some very progressive steps and changes in our attitudes and I should certainly draw the attention of the Transport and Communications Ministry in this respect that while bringing forward this Bill before this House I wish it would have been a bit more comprehensive instead of keeping it confined and limited to one particular point, 'lotteries'. I do not understand why this Bill sticks to that one particular point and does not provide for wider scope in its provisions for implementing the various social and administrative changes that are felt with the passage of time. I do not know what is the particular point which will be made out by the hon. Minister in defence of this particular amending provision but this much I can say that it is odd that we should speak of only lotteries and not about other things. There are many things; there are so many

anti-social evils, anti-Indian things; there are so many destructive and disruptive materials passing through post office channels. I cannot understand why all those things could not have been brought under this so that matters could be settled once for all. Why lotteries alone?

Now, I think if you are going to ban the transmission of lottery tickets and other connected materials, it is likely to bring in inter-postal complications. Things come in from different post offices and from different countries and they pass through your post office. Now, if you implement this provision and ban some of those articles, then naturally there will be international or I will say, inter-postal, complications. I am certainly at one with the sponsor of this legislation that this lottery should be stopped but authorised lottery also must be put into the same category as other lotteries. That means that those who are engaged in this business of running lotteries will get their lotteries authorised; by having some lottery companies or through lottery corporations they will have their lotteries completely and legally authorised and in that way the whole purpose of this Bill, that is to say, the object of having a social reform, will be defeated when such persons who engage themselves in the lottery business get their lotteries authorised and make them legal. Therefore I do not find much substance behind this amending proposal also, I do not know how the proposal will be controlled and regulated. While I support this Bill, I would request the hon. Minister to make this amendment more comprehensive so that the various other defects may also be brought within its purview and innocent materials may not be adversely affected.

SHRI T. S. PATTABIRAMAN (Madras): Mr. Deputy Chairman, I am surprised that the Government is setting double standards for their code of conduct and for the code of conduct of the people. When they object to

lotteries, they must object to lotteries run by the Government as well as by private individuals. I personally feel that this amending Bill should have come forward without any explanation that has been provided here, which says: "In this section, 'lottery' does not include a lottery organised or authorised by the Government." I would like to know whether it is held that if a lottery is run by the Government it ceases to be a lottery or all its evil goes. That is how this explanation reads. The very object of forbidding lotteries has been to see that there shall be no swindling of the people by different persons. For example, lotteries are completely prohibited in Madras. There is a provision that the Government may give permission but the Cabinet has long ago decided that on no account permission ought to be granted. As a matter of fact no lottery is being run in Madras and no permission is given. But most unfortunately the tickets of Orissa Barabati Raffle, the Derby Raffle and so many other Raffles and lotteries run by other States either with the approval or connivance of their Governments are being sold in Madras and the object of the Madras Government is being defeated. The object of the Government is to prevent people, especially the middle class people, from losing their money over these lotteries, crossword puzzles and things like that. That has been the object but that very object of the Madras Government is being defeated by other States and also by the Postal Department. Sir, this is a very serious thing. If lotteries are bad, they should be bad for the common people, for the public and also for the Government. And if lotteries are good, then the Government can conduct them and others also can conduct them. But those States which do not want lotteries to be encouraged in their States should be given all facilities by the Centre to prevent the sale of lottery tickets in those places. On the other hand, this particular amending Bill will enable the tickets of lotteries run with the connivance or blessings

[Shri T. S. Pattabiraman.]
of the Government to be sold in such States and the money from those particular States will be going out. For example, in Madras the Orissa Barabati, Raffle tickets are being sold in lakhs and the Madras people are being made poorer for that.

SHRI AMOLAKH CHAND: It is the weakness of the Madras Government.

SHRI T. S. PATTABIRAMAN: Perhaps my friend will argue that it is the weakness of the Madras Government that it is part of the Indian Union. If the Centre is bringing forward such legislation enabling one State to enter into another State and sell lottery tickets and other things which are not available normally in that particular State, how is it to be helped? It is the foolishness of the Centre and it must be brought to the notice of the Central Government.

SHRI AKBAR ALI KHAN: I think, Sir, the word 'foolishness' used with reference to the Centre is unparliamentary.

SHRI T. S. PATTABIRAMAN: It is most unfortunate that the Central Government should bring forward such legislation. The Madras Government does not want raffles or lotteries in the State. For example, there is prohibition there and if the Government of India were to permit the import of liquor into Madras State by postal channels, what will be the position? This amounts to the same thing. That is why I say this. I am sorry I used the word 'foolishness'; I am really sorry for that. I would say it is really indiscreet on the part of the Government of India to bring in legislation . . .

SHRI AKBAR ALI KHAN: That is all right.

SHRI T. S. PATTABIRAMAN: . . . of this kind and allow the sentiments of the Government of Madras and other such State Governments to be wounded. So I would appeal to the hon. Minister in charge to remedy

this situation and these things must be allowed only in such States which do not protest against them. If the Government of Madras requests the Centre not to send such things there, the wishes of the Madras Government must be respected. An amendment to that effect may be made by the hon. Minister. I am sure the Government of India and the hon. Minister will respect the sentiments and wishes of the Madras Government and the people of Madras and will not embarrass them by allowing these lottery tickets inside that State.

MR. DEPUTY CHAIRMAN: I wish the hon. Member will not use such words as 'foolishness'.

SHRI T. S. PATTABIRAMAN: I said, Sir, that I was sorry for it.

SHRI H. D. RAJAH (Madras): Sir, I would like to say a few words on this. This proposed section 19A is fundamentally wrong. It is against the concept of having a free exchange of letters between one person and another. It is said, 'No person shall send by post any ticket, proposal or advertisement relating to a lottery....' First of all, how is it that a man can find out what is contained in a letter? It means an indirect censorship of all letters of Indian citizens sent from one person to another. If this Act is passed by this House, logically it means the very denial of the fundamental rights of citizens to exchange letters.

MR. DEPUTY CHAIRMAN: It does not apply to letters.

SHRI H. D. RAJAH: But how will you find out? Assuming for a moment your argument, suppose I get a ticket and I send it to another man. I buy one cover from the post office, put that ticket inside and also put in a letter and post it. First of all, how are you to ascertain that in that letter there is a ticket? In order to enforce this provision, the postman or the Head Clerk of a Post Office or any

man who may not have any rank—but he is a postal authority—can tear that letter open and find out what is in that letter. It is a love letter which I have sent to my fiancée. I am at liberty to write.

MR. DEPUTY CHAIRMAN: Your love letters will not be opened.

SHRI H. D. RAJAH: How do you know? That is the question. The point at issue is that it is contained in a letter which I have sent. I want an answer categorically to that and then you may take that amendment. Sir, it is not possible that any sensible person will accept this amendment and you have defined it as ticket. Whether a letter contains a ticket or not is not known to anybody. It means you give authority to the postal authorities to open every letter that is sent out by one man to another. I would plead with the Government to make some positive suggestion. We say that no proposal for a lottery can be sent, no ticket for lottery can be sent. Do not put it that way. If you want to bring such a thing, you make out a case and state that only such and such letters or packets can be opened. Let it be constructive, not destructive. That is the point I want to plead. Let them answer the House in a proper way, I have no objection.

SHRI RAJ BAHADUR: I am grateful to the House for evincing this big interest in a small measure like the present one.

SHRI KISHEN CHAND: It is not a small measure.

SHRI H. D. RAJAH: It is not a small measure.

SHRI RAJ BAHADUR: It has got only four clauses.

SHRI M. GOVINDA REDDY (Mysore): Although small in size, it is far reaching.

SHRI RAJ BAHADUR: I suppose my friends would concede to me the

right to convince them, if I can, that it is small otherwise also, apart from its size. To begin with I may assure the House that it is not the intention of the Postal Department at all to embark upon any measure or any step for the reform of public morals. It is farthest from us so far as this Bill is concerned. Some observations were made by some of the hon. Members as to why we are attacking only one vice, namely, the unauthorised lottery? Why not the vice of drunkenness too, and others also. A host of names of other vices were mentioned. I would not like to encumber the proceedings of the House by repeating their names. I can assure the House, however, that it is not the business of the Postal Department to look after the morals of the people for checking evils or to control the vices which arise out of the frailties of human nature. Human nature according to some cynics, psychologists or philosophers is "inherently wicked". But we in the Postal Department have got immense faith in the goodness of human beings. Nevertheless, we have got to take good care that the postal services are not misused, that they are not allowed to hamper the operation and enforcement of a law which already stands on our Statute Book. To cut the matter short, I would at once like to invite the attention of hon. Members to section 294A of the Indian Penal Code which makes the drawing of unauthorised lotteries etc. an offence. For the sake of ready reference and easy understanding of the point that I would humbly like to make in this behalf, I may with your permission, read it out. Section 294A reads as follows:

"Whoever keeps any office or place for the purpose of drawing any lottery, not being a State lottery or a lottery authorised by the State Government shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both."

[Shri Raj Bahadur.]

That is in regard to unauthorised lottery—keeping an office for it or running it.

In the next paragraph it says:

“And whoever publishes any proposal to pay any sum, or to deliver any goods, or to do or forbear doing anything for the benefit of any person, on any event or contingency relative or applicable to the drawing of any ticket, lot, number or figure in any such lottery shall be punished with fine which may extend to one thousand rupees.”

So, the law is there on our Statute Book, the Indian Penal Code.

SHRI H. D. RAJAH: Then, that is enough.

SHRI RAJ BAHADUR: The law is enough so far as it goes, but should the post office allow itself to play the accomplice for the law breakers? It cannot.

DR. W. S. BARLINGAY: Could the post office be an accomplice unknown to itself?

SHRI RAJ BAHADUR: The question is, supposing the post office is used by a person who wants to run an unauthorised lottery and he sends a large number of tickets in regard to that unauthorised lottery and claims the use of the good offices of the post office as a matter of right, for a purpose which evidently is not only against public policy but also against the law of the land which declares such an act to be an offence, now, if the post office helps him in doing that, does the honourable member hold the view that the post office should not refuse to do so and should deliberately play the part of an accomplice? I emphatically submit, Sir, it should not.

DR. R. P. DUBE: Aider and abettor.

SHRI RAJ BAHADUR: My friend, Dr. Dube, says it would be aider and abettor of the offence in case the Post Office were to allow its employees or the postal department, its machinery to run the unauthorised lottery.

DR. W. S. BARLINGAY: I am sorry this is a wrong statement of the law.

SHRI RAJ BAHADUR: I would be grateful to the hon. Member if he points out as to how it is wrong. I would like to understand that, because I stand corrected if the point made out by me is wrong.

DR. W. S. BARLINGAY: Socially, from the point of view of society, you may be perfectly right. But so far as the legal sense of abetment is concerned, I feel with all respect to you that you are wrong, because the first ingredient of an offence is intention, *Mens Rea*, and in this particular case the post office could not possibly have the criminal means.

SHRI RAJ BAHADUR: I follow the point of the hon. Member. If that is all what he wants to say, I do not for a moment deny that the presence of *Mens Rea* is essential for the purpose of abetment of an offence. The question is, if it is known to the postal department that a particular kind of literature is being sent by a particular individual causing thereby the infringement of the law of the land, causing thereby the perpetration of an offence, say for example, and if it comes to the knowledge of the Post Master General, if it comes to the knowledge of the Director General of Posts and Telegraphs, or if it comes to the knowledge of the postal employees in the lowest or the highest rung of the ladder, and knowingly and deliberately they transmit such literature pertaining to an unauthorised lottery or allow it to pass on from the sender to the addressee so that it may have the desired effect upon the person to be persuaded by the advertisement or by the literature that is thrown out in this behalf, will it

not be a deliberate act on the part of the department and its employees? Will that *Mens Rea* not be there?

SHRI H. D. RAJAH: Hand over to the police.

SHRI RAJ BAHADUR: That means you agree at once with the purport of the Bill. If you want me that I should hand over the man to the police in every case a letter is found like that, my department will have to run to the police or to the magistrate . . .

SHRI H. D. RAJAH: No.

SHRI RAJ BAHADUR: He will have to run to them in every case. And when we have got an analogous provision in the law already existing in regard to such other types of things such as explosives, or noxious articles or obscene literature, why should the banning of such tickets and literature being transmitted by the postal department, by a suitable amendment of the law be considered to be improper?

SHAH MOHAMAD UMAIR: But may I ask the hon. Minister . . .

MR. DEPUTY CHAIRMAN: He is not yielding. Please sit down. He is on his legs. Order, order.

SHRI RAJ BAHADUR: Sir, may I just invite attention to section 23 of the Indian Post Office Act here? But I may perhaps first refer to the observation of my hon. friend, Dr. Dube, who said that because the Act is as old as 1898, it should be changed in toto and a comprehensive new Bill should be produced before the House as early as possible. I may respectfully point out to him that the Indian Penal Code is as old as 1860. For that matter we do not want to change it or another Indian Penal Code to come in. There are so many other pieces of legislation which are on our Statute Book. Why should we change them all wholesale? This particular Act has stood the test of time. It has served the post office well. This Act

and the subordinate legislation in the form of various manuals of the Posts and Telegraphs Department have worked well. In the circumstances, apparently there is no earthly reason why we should bring forward a comprehensive Bill to change the entire structure of the particular present enactment when it is not needed.

DR. R. P. DUBE: May I know whether with this amendment the Act will be perfect now?

MR. DEPUTY CHAIRMAN: Order, order. You have had your say.

SHRI RAJ BAHADUR: I claim no perfection for any Act. It is not my business. Even if I claim that it is perfect, my word will not be the final word for it. That depends upon the experience, that depends upon the working of the particular enactment; and it also depends upon the changes that take place in the society. 3 P.M. It is time that society may change its conception about a particular thing, and the law which was good till yesterday may not be good today. At the moment we feel that there is no particular occasion or need for bringing forward a legislation for a total or complete overhaul of the Act. That is my submission.

In section 23 power is given to deal with postal articles sent in contravention of the Act. I will first read sections 19 and 20 which describe such articles as are prohibited. Section 19 runs as follows:—

"19(1) Except as otherwise provided by rule and subject to such conditions as may be prescribed thereby, no person shall send by post any explosive, dangerous, filthy, noxious or deleterious substance, any sharp instrument not properly protected, or any living creature which is either noxious or likely to injure postal articles in course of transmission by post or any officer of the Post Office.

[Shri Raj Bahadur.]

(2) No person shall send by post any article or thing which is likely to injure postal articles in course of transmission by post or any officer of the Post Office."

"20. *Transmission by post of anything indecent, etc., prohibited.*—No person shall send by post—

(a) any indecent or obscene printing, painting, photograph, lithograph, engraving, book or card, or any other indecent or obscene article, or

(b) any postal article having thereon, or on the cover thereof, any words, marks or designs of an indecent, obscene, seditious, scurrilous, threatening or grossly offensive character."

May I submit here that those articles which would come within the mischief of section 20, namely indecent or obscene printing, painting, photograph, etc., if they are contained in letters, such letters need not be opened but if reliable information is received about the transmission of such articles, such letters may have to be opened, and that power is already given by this very Act to the Post Office in certain cases. If a particular packet contains an explosive substance, contains a substance which is noxious, the Post Office is entitled and empowered to open the packet and to take such action in regard to it as is necessary in accordance with the provisions of the law.

"Section 23—*Power to deal with postal articles posted in contravention of Act.*—(1) Any postal article sent by post in contravention of any of the provisions of this Act may be detained and either returned to the sender or forwarded to destination, in each case charged with such additional postage as the Central Government may, by rule, direct."

In regard to articles which come within the operation of sections 19 and 20, the power is given to the Post Office under sub-section (3) to deal

with them. I will read sub-section (2) which gives the power of opening:

"(2) Any officer in charge of a Post Office or authorised by the Post Master General in this behalf may open or unfasten any newspaper or any book, pattern or sample packet, in course of transmission by post, which he suspects to have been sent by post in contravention of section 20(a) or section 21 or of any of the provisions of this Act relating to postage."

Now, I need not read sub-section (3), because it has already been reproduced on the last page of the Bill. This is in regard to postal articles which are sent in contravention of sections 19 and 20.

So, Sir, at present the power is there only either to detain postal articles and return them to the sender or forward them to the destination. They cannot be dealt with otherwise. I gave an instance in my opening observations that we got 40 bags full of book-packets, and according to the present law, the Post Office was under an obligation and a responsibility not merely to have them detained but also to return them to the sender. This naturally involved loss of time, money, energy and so many other things for us. So, Sir, you will appreciate that we could not act arbitrarily. I also said that in regard to articles mentioned in Sections 19 and 20 we enjoyed certain powers to destroy such articles, but during all these years since 1898 there has not been a single complaint, I am told, on the score that these powers which have been given to the Post Office were ever misused. There should, therefore, be no apprehension on that account. If it is held that literature pertaining to unauthorised lotteries should not be carried by the Post Office, if we agree on that point, then the Post Office should be armed with powers to deal with such types of literature, so that unnecessary work and unnecessary responsibility in regard to such articles are not

brought to be borne by the Postal Department.

DR. W. S. BARLINGAY: That amounts to giving judicial power to postal authorities.

SHRI RAJ BAHADUR: I cannot agree with my hon. friend that it amounts to giving judicial powers to the Postal authorities. It is only a question of observation to see whether a particular lottery is authorised by the State Government or not.

It was also argued why there should be this discrimination between a State lottery or an authorised lottery and an unauthorised lottery. As some honourable members have said, we want to achieve a socialist pattern of society in our country as early as possible. Why then should there be a continuance or perpetuation of institutions which are painful reminiscences of the past age, or the capitalist age? My submission is that this is not a matter first of all for the Postal Department to think about in regard to the stopping or not stopping of lotteries—authorised or unauthorised. That is a major matter of policy. If you want to stop lotteries for all purposes, well, it is a matter for the Home Ministry to think about it. But I think the continuance of permission in regard to State lotteries is based on some sufficient grounds. State or authorised lotteries have been allowed to continue perhaps because we can use this particular device not only to evoke in our people the philanthropic instinct, the instinct to help fellow human beings, and thereby achieve some social purpose, but also to let the people experience that thrill which they usually get in such types of sport. So, they might have thought it fit to retain lotteries for legitimate or useful purposes. Hence section 294A exists in our Penal Code. This section has been amended twice. If I may refer to the foot notes here, it was amended first in 1937 when for the words “not authorised by Government”, the words “not being a State lottery or a lottery authorised by the

State Government” were substituted. Then after Independence the words “a lottery organised by the Central Government or the Government of a Part A State or a Part B State” were amended to “a State lottery”. So, it is obvious that we have retained this particular power that lotteries might be allowed or permitted or authorised by the State Government for particular purposes, purposes which are beneficial to society, purposes which would help us in the reconstruction of our national economy, and other similar purposes. So, Sir, so far as these points are concerned about discrimination in favour of State lotteries as against unauthorised lotteries, I think the points that have been just now submitted will be accepted.

My friend Mr. Amolakh Chand said that some powers should be taken to scrap letters saying “if you do not make out so many copies of this, there will be dire consequences”. I do not think, Sir, that there is any need for that. We should refuse to submit ourselves to that superstitious feeling. Why should anybody write to me saying that “you make out hundred copies; otherwise you will be killed, you will incur the curse of God” and the like, and if he does so, why should I care? My destiny depends upon my own character, upon my own actions. I should take care of my actions rather than pay heed to an exhortation that I should make so many copies of a particular letter lest I should be visited with some misfortune.

DR. R. P. DUBE: Everybody is not so philosophical as you are.

SHRI RAJ BAHADUR: I do not claim to know philosophy, Sir. I only think we are all for evolution and for progress of society and promotion of a more scientific and reasonable way of thinking in our people. Therefore, I would like the people to resist such exhortations. (Interruption.) Sir, just now an objection was rightly taken by a

[Shri Raj Bahadur.]

member that the sanctity of a love letter might be outraged in case every letter is allowed to be opened and read. That was the objection. But if Mr. Amolakh Chand's point is taken for granted and is implemented, then each and every letter may have to be opened by the postal employees to see whether a particular letter does not ask the addressee to make 25 or more copies of it. That would be a very dangerous proposal.

DIWAN CHAMAN LALL (Punjab): How do you outrage the susceptibility of a love letter?

SHRI RAJ BAHADUR: I said 'sanctity'.

SHRI H. D. RAJAH: The sanctity of my affection may be offended, but not that of the love letter.

SHRI RAJ BAHADUR: Well, that distinction was not in my mind. I concede the point. It is the sanctity of love that produced the love letter—the feelings.

Well, Sir, the next point was that it was a commercial department and therefore why should we not earn revenues even though the act involved what might be considered a questionable practice from the point of view of law and morality? As I have just explained the point, we have to deny ourselves such revenues in case the transmission of a particular postal article will involve us in a particular crime.

Now, the second point was: What about such institutions like papers or shopkeepers or firms or trading concerns awarding prizes— if you buy so many articles, you get so many coupons and if you send the required number of coupons, the offer is to give you this reward or that? I think on the very face of it it is a simple

proposition. In such a case the reward or gift does not depend upon mere chance. Anybody who buys a particular number of articles will get a particular number of coupons, and if he sends those coupons, it is not a chance. It is a certainty. Therefore, Sir, this analogy does not fit in here. Well, I think sir, I need not go into all those subtleties here because each case will have to be decided on its merits.

SHRI H. D. RAJAH: But who is to decide that?

SHRI RAJ BAHADUR: Well, the Post Office Department would first of all know that a State Government has notified that certain lotteries are authorised lotteries. Secondly, if there is any difficulty or any doubt about something, the Post Master General is there to decide the matter. It would not be difficult.

Then, Sir, Mrs. Savitry Devi Nigam, Shri Mahesh Saran and one or two other Members suggested that authorised lottery also should be banned and should also be brought under the scope of the Bill. Although I have explained the reasons why we do not like to do that, it is entirely a matter for the Ministry of Home Affairs to decide.

Then, Sir, Mr. Mukerjee asked: How is it possible for the postal employees to distinguish between authorised and unauthorised lotteries? I think this also is a very simple thing, because so far as this particular question is concerned, as I have already said, the State-authorised lotteries will be known and the other lotteries will not be known to the postal department. Apart from that, we have got to keep a watchful eye and a vigilant eye on such persons and institutions or such types of mails which are associated with such illegal or anti-social activities.

Then, Sir, one point was made by Dr. Barlingay that this may be *ultra vires* of our Constitution. Well, Sir, I have already referred to section 294A of the Indian Penal Code, and for whatever little I know of the fundamental rights and of the Constitution, I think none can claim that indulging in—excuse me for saying so—a practice of swindling by running an unauthorised lottery is at all a fundamental right.

DR. W. S. BARLINGAY: I haven't said that. I said "transmission by post office".

SHRI RAJ BAHADUR: And what I am saying is that the Post office should not be a party to any illegal act, and therefore I am not infringing anybody's fundamental rights. That is all that I say. By refusing to transmit any literature in regard to an unauthorised lottery I do not infringe any fundamental right. So the constitutional difficulty which my friend seems to think might arise, in my humble view does not arise at all. He also said that it might infringe one's personal freedom. And Mr. Kishen Chand used even much stronger words by saying that it was a denial of democracy and so many other things. Well, Sir, I do not think I should repeat my observations in regard to that because I have already dealt with that point.

Then, Sir, Shri Akbar Ali Khan said that the Bill presupposes that lottery is a bad thing, and he objected to the very basis of the Bill. He also referred to the instance where a cancer hospital could be raised in Hyderabad by running a State-authorised lottery. Sir here we are opposed only to unauthorised lotteries. Not to ban them would also be an extreme view. I find the discussion reveals two extremes. On the one hand, it was said that all lotteries should be allowed. On the

other hand, the view was that all lotteries should be stopped. The view held by Shri Akbar Ali Khan is contrary to the view which has been given expression to by Shrimati Savitry Devi Nigam or for that matter by one or two other Members. So, I think both of them cancel each other.

Then, Sir, Shri Patil said that there might be a practical difficulty in working the law. He also said that there were so many vices; why should we attack only one of them? I have already made my observations in regard to that point. He said that we are passing this Bill in a great hurry. Well, I would only say that the Bill has come not a day too early. It has come well in time. I think if at all, it has come rather late than early.

SHRI SONUSING DHANSING PATIL: The general criticism outside is that we are passing Bills hastily, not this particular Bill.

SHRI RAJ BAHADUR: Sir, I have already referred to one or two remarks made by Dr. Dube. He said that the post office manuals are not available in the library. I express my regret for that, and I will make it a point that the post office manuals which contain rules and instructions will be placed in the library. Then he said that I should undertake a complete overhaul of the law since I am a young man. Well, I protest against that, because according to Thomas Hardy the epithet 'young' ceases to be affixed against the name of a person if he has crossed the age of 28. I am running my forty-sixth year.

(Interruption.)

He was very particular that we should have an additional delivery on Sunday. Sir, he is a doctor and he is fond of deliveries.

DR. R. P. DUBE: That comes only after nine months. Here I am talking of postal deliveries.

SHRI RAJ BAHADUR: I can only say that we can better think of an additional delivery in case the doctor and his friends volunteer their services. At any rate, Sir, there are many doctor friends of mine who have complained to me that they are having too many deliveries and consequently they have got to deal with heavy mails, and that means additional work for them. (*Interruption*). On a previous occasion I have already said that it will entail a further expenditure of about a crore of rupees in case we have to introduce a delivery on Sunday. My humble submission is that we have got to find the necessary funds for it.

DR. R. P. DUBE: You have now got more revenues. I will request you ...

MR. DEPUTY CHAIRMAN: You cannot go on replying to the Minister. He is replying to you now.

DR. R. P. DUBE: Sir, last time he said that if there is more revenue and more money, then he can introduce this additional delivery on Sundays. So now we are paying two pice more for an envelope and two pice more for the letter cards. Thus there is more revenue.

SHRI RAJ BAHADUR: Sir, I think there will be another occasion for us to deal with this particular point.

Then, Sir, Shrimati Ammu Swaminadhan said that it was dangerous to allow the postal employees any power to destroy letters or postal articles. I have said that we are getting this particular power for particular purposes and there has been no complaint about any misuse of that particular power which the Post Office had in respect of certain other banned

articles. And I can again assure the House, Sir, that it is not that every letter is going to be opened. We know the particular types of people who are dealing with such things. They cannot remain hidden; they cannot remain concealed for long. They will have to give their address; if so, they would be known. If we suspect that a particular person is sending such articles by post, we will have a good ground to open his letters because he deals with such unauthorised lotteries and the literature pertaining thereto. His letters might be opened because he makes himself liable for that particular risk by his own action, nothing more. Then Shah Mohamad Umair said 'Why speak of only lottery? Why not of other vices too?' I have already replied to that. Mr. Pattabiraman was rather angry. He said that it is rather foolish on our part to put forward this Bill. Then he corrected himself and said it was "indiscreet" on our part that we should have taken such a piece-meal legislation. Why should we also not ban liquor and why not do many other things? Why should there be double standards? I have already made my observations in regard to these points. I will not detain the House by repeating my observations. I would only say that the measure is necessary and I would commend it to the House for acceptance.

SHRI H. D. RAJAH: Sir, two points I require the hon. Minister to clarify in this House. Bets on horses, tips, are we allowed to send by post? Secondly, are papers relating to lotteries authorised by State Governments and Central Government for founding of hospitals etc. coming under the law or are they prohibited under the present amendment? If I get the reply from the hon. Minister . . .

MR. DEPUTY CHAIRMAN: The amendment itself is quite clear. Whatever is sanctioned by the Government is allowed.

SHRI H. D. RAJAH: But the words are not there . . .

MR. DEPUTY CHAIRMAN: Read the explanation.

The question is:

"That the Bill further to amend the Indian Post Office Act, 1898, be taken into consideration."

The motion was adopted.

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

Clauses 2 to 4 were added to the Bill.

Clause 1—Short Title

SHRI RAJ BAHADUR: Sir, I move:

2. "That at page 1, line 4, for the figure '1957' the figure '1958' be substituted."

Sir, this is only a consequential amendment.

MR. DEPUTY CHAIRMAN: The question is:

2. "That at page 1, line 4, for the figure '1957' the figure '1958' be substituted."

The motion was adopted.

MR. DEPUTY CHAIRMAN: The question is:

1. "That clause 1, as amended, stand part of the Bill."

The motion was adopted.

Clause 1, as amended, was added to the Bill.

Enacting Formula

SHRI RAJ BAHADUR: Sir, I move:

1. "That at page 1, line 1, for the word 'Eighth' the word 'Ninth' be substituted."

The motion was adopted.

MR. DEPUTY CHAIRMAN: The question is:

"That the Enacting Formula, as amended, stand part of the Bill."

The motion was adopted.

The Enacting Formula, as amended, was added to the Bill.

The Title was added to the Bill.

SHRI RAJ BAHADUR: Sir, I move:

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

MR. DEPUTY CHAIRMAN: Motion moved:

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

DR. R. P. DUBE: Sir, I have to point out to the Minister that he has not replied to one point of mine, viz., about Section 61(1) in annexure. I had asked him what action was taken and how many have been convicted under this. You are taking another power but what have you done with the power that you had before?

SHRI KISHEN CHAND: Mr. Deputy Chairman, in his reply, the hon. Minister has tried to point out that the post offices do not want to become abettors in the business of lottery. Of course he has first tried to define that lottery. If it is authorised, it is all right and if it is unauthorised, it

[Dr. R. P. Dube.]

is a wrong thing and a crime and an immoral thing. Of course I don't understand how the distinction arises. The moment it is unauthorised, it would be immoral and the moment it is authorised, it is moral and therefore there should be no objection because his argument was based merely on the idea that by carrying, you become an abettor. I beg to submit that, as I said before, the post office is a carrier and all over the world certain traditions and conventions have been formed. After all there is an international agreement about post offices. You have to carry certain letters to foreign countries and your letters are carried by foreign countries and supposing a lottery is sent by a foreign country, you have an agreement in an International Convention to deliver those articles in your country as your articles are delivered in those other countries. By taking unilateral action in our country, banning the transfer of lotteries, I submit that we are contravening that International Agreement over which we have absolutely no control. Then as I said, all over the world there are certain traditions built up. The Railways, the Post Offices and the Telegraph—all these—are conveniences provided to public and where conveniences are being provided to public, considerations of morality should not come in. Of course I don't want highly objectionable things, obscene things, to be transferred by post offices. There are certain limits. There is a world wide convention about obscene literature. There is an International Agreement in the matter of obscene literature but there is no such agreement in the matter of lotteries. The Minister tried to make a distinction in the matter of lotteries. He said, where there is a slight element of skill and chance, it does not come under the definition of lottery.

SHRI RAJ BAHADUR: That is no lottery at all.

SHRI KISHEN CHAND: Some years ago, the crossword puzzle was intro-

duced and there is a tendency to convert all lotteries and all things of chance into some sort of skill by introducing indirectly an element of skill in it. As I said, in the matter of crossword puzzle, directly it will not be considered a lottery but in the interest of our country, a legislation was passed that a crossword puzzle with a reward upto Rs. 1,000 is permitted. If the reward is in excess of that, no crossword puzzle can be floated or issued. According to the Minister, if crossword puzzle is not a lottery, is not a thing of chance, it is a thing of skill, then there should have been no limitation on the reward . . .

MR. DEPUTY CHAIRMAN: Anyway there is a law and it is an Act of Parliament.

SHRI KISHEN CHAND: I am pointing out that if the Legislature in its wisdom came to the conclusion that there is this subtle distinction between a lottery which is based entirely on chance and a lottery in which some element of skill has been introduced, it is a very subtle distinction. Therefore we should not go by it and my contention is that under the definition of lottery, even those schemes should be brought in where there is some element of skill involved. All kind of horse racing is now permitted. It is not a State thing but it is permitted in Bombay, Poona and all these various person . . .

(Interruptions.)

SHRI H. D. RAJAH: Madras . . .

SHRI KISHEN CHAND: . . . That will also come under lottery. I don't know and the hon. Minister will have to give . . .

MR. DEPUTY CHAIRMAN: The remedy is to amend those enactments and not this.

SHRI KISHEN CHAND: The remedy is that the carrier should not come into this affair. The remedy is that the post office should not meddle into this matter. The duty of the post office is to carry things provided they are fully paid and therefore I once more oppose this motion.

SHRI SANTOSH KUMAR BASU (West Bengal): The provisions of this Bill, Mr. Deputy Chairman, lie within a very short compass. The whole question is, seeing the law as it stands now, as has been amply demonstrated by the hon. Minister in his reply, the post offices become the purveyor of something which is illegal. Will it send out an open invitation that its services can be utilised for the purpose of carrying illegal material? So it is necessary to change the law and alter its present provisions with regard to lotteries and make it illegal where the lottery is not one authorised by Government. As the law stands at present, can there be any escape from the conclusion that the postal department cannot refuse this facility to law-breakers? In other words, the post office, without this provision will continue to offer its invitation to all law breakers, to all and sundry, in this particular respect and say, "Yes, you can utilise the facilities provided by the post office as a State carrier." Mr Kishen Chand has been insisting that the carrier has no right to refuse to convey any article that is sent to it and paid for. But my hon. friend forgets that this particular carrier is a State carrier and it has got its own obligations. It has got to function within a particular law and within the ambit of that law it cannot possibly refuse any article being carried, if it is asked to. Now, without such a provision, the fundamental right will be infringed of a person who desires the post-offices to carry such unlawful stuff. Therefore, it is necessary to safeguard the fundamental rights of law-abiding people and therefore, such a provision as this should be made in the law. I submit that the subject matter of this

legislation lies within a very very narrow compass. It is as well that the matter has been discussed in all its aspects but at the same time, let us not forget the basic purpose of this Bill and that, as I said, lies within a very small compass.

SHRI RAJ BAHADUR: Sir, I am grateful to Shri Basu for his observations which I think, must have cleared all the doubts that might have been lurking in the minds of some hon. Members. I would only point out one aspect with regard to international obligations, because the question was asked: "What about lottery tickets and advertisements coming from foreign countries? I may point out that we have the necessary provisions in the Indian Postal Act where under section 24 it is laid down that:

"Except as otherwise provided in this Act, where a postal article suspected to contain any goods of which the import by post or the transmission by post is prohibited by or under any enactment for the time being in force, or anything liable to duty, is received for delivery at a Post Office, the officer in charge of the Post Office shall send a notice in writing to the addressee inviting him to attend, either in person or by agent, within a specified time at the Post Office, and shall in presence of the addressee or his agent, or if the addressee or his agent fails to attend as aforesaid then in his absence, open and examine the postal article." And so that is how he deals with it.

MR. DEPUTY CHAIRMAN: So whatever international obligation is there is subject to the Indian law.

SHRI RAJ BAHADUR: Yes, I am not quite sure about the International Convention referred to here, but I will make sure. With regard to the point that Dr. Dube raised, I do not

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 have the information but I will collect it, but so far as I know no complaint has been received about he misuse of power.

SHRI H. D. RAJAH: Sir, . . .

MR. DEPUTY CHAIRMAN: Not after he has replied.

SHRI H. D. RAJAH: I only want to know if tipping on horses is allowed under the law.

MR. DEPUTY CHAIRMAN: Order, order. The question is:

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

The motion was adopted.

THE ANCIENT MONUMENTS AND ARCHAEOLOGICAL SITES AND REMAINS BILL, 1957

THE MINISTER OF STATE IN THE
 MINISTRY OF EDUCATION AND
 SCIENTIFIC RESEARCH (DR. K. L.
 SHRIMALI): Sir, I move:

"That the Bill to provide for the preservation of ancient and historical monuments and archaeological sites and remains of national importance, for the regulation of archaeological excavations and for the protection of sculptures, carvings and other like objects be taken into consideration."

The House will remember that I had given an assurance that I would bring forward a comprehensive measure on this subject. That has been overdue for some time, since the present law is entirely unsatisfactory.

The Constitution has distributed the subject under three heads. There is entry 62 in the Union List, there is entry 12 in the State List and there

is entry 40 in the Concurrent List. Though the Constitution has thus distributed the subject under three heads there is only one law and that is the Act of 1904 which operates. The difficulty with regard to this Act of 1904 is that as far as the State List is concerned, the Act becomes completely ineffective, because the Act of 1904 vests the executive authority in the Central Government and the Central Government is not in a position to exercise authority in view of the constitutional provision which vests such authority in the State Government. Therefore, the Act of 1904 has practically become a dead letter so far as ancient monuments falling in the State field are concerned. The main purpose for bringing out this measure now is that it will now be a self-contained law at the Centre which will apply exclusively to ancient monuments of national importance falling under entry 67 of List I—the Union List, and to archaeological sites and remains falling under entry 40 in the Concurrent List. The Central Government has also advised the State Governments, to enact their own legislation in respect of ancient monuments falling under entry 12 in the State List. In this way we will ensure that there is no overlapping of jurisdiction and no confusion which arose from the Act of 1904. I am glad to say that the State Governments of Orissa and Uttar Pradesh have already enacted their legislation in this matter, and we have been told that Bombay and West Bengal have also prepared their Bills and they would now be introduced.

The present Bill is broadly modelled on the lines of the Act of 1904. It does contain certain new provisions which are intended to overcome certain difficulties which we had experienced in the working of the Act of 1904. I would draw the attention of the House to some of the important provisions.

Firstly, I may point out that in the Act of 1904, the Collector had