

been prepared for wet cultivation and the waters are going waste; and

(8) in spite of the setting up of heavy industrial units, the progress is slow on account of the inefficient recruitment policy of the Indian personnel, forcing many qualified and foreign-trained Indians to seek employment in foreign countries.' "

The motion was negatived.

MR. CHAIRMAN: The question is:

8. "That at the end of the Motion the following be added, namely:—

'but regret to find that India still continues to be a member of Commonwealth and the Prime Minister continues to make pilgrimages to London for attending conferences of Commonwealth Prime Ministers.' "

The motion was negatived.

MR. CHAIRMAN: The question is:

9. "That at the end of the Motion the following be added, namely:—

'but regret to find that India continues to remain in the Commonwealth thereby impeding the economic growth of this country.' "

The motion was negatived.

MR. CHAIRMAN: The question is:

"That an Address be presented to the President in the following terms:—

"That the Members of the Rajya Sabha assembled in this Session are deeply grateful to the President for the Address which he has been pleased to deliver to both the Houses of Parliament assembled together on the 10th February, 1958.' "

The motion was adopted.

MR. CHAIRMAN: The motion is carried unanimously.

THE ANCIENT MONUMENTS AND ARCHAEOLOGICAL SITES AND REMAINS BILL, 1957—continued

MR. CHAIRMAN: Dr. Raghubir Sinh.

DR. RAGHUBIR SINH (Madhya Pradesh): Mr. Chairman, I am really relieved to see that at long last the Ministry of Education has delivered the new Bill. I was afraid that because of the long period of gestation that it has taken, there will be some abnormalities in the Bill but I am quite relieved to note that it is not very abnormal though the long period has necessarily stunted it, left it a little incomplete in parts and it lacks the proper perspective of the immediate past.

[MR. DEPUTY CHAIRMAN in the Chair]

Anyway the Bill is before us now and we have to deliberate on it. I am really sorry that the hon. Minister himself has not come here to see the Bill through. I must admit that it is a momentous occasion that after a lapse of full 54 years, a new Bill on the subject is before us. Moreover they have taken full 10 years and more to revise the Bill for being placed before this House. Anyway I would have been very happy if he were here, if that veteran fighter for India's Independence and that staunch supporter of democratic methods were here. I would have then earnestly pleaded before him with all the earnestness and persuasion at my command to accept a humble request of mine. My request is that such a comprehensive Bill, such an important Bill, such a momentous Bill, should have necessarily gone to a Select Committee for consideration. When I referred to the May's Parliamentary Practice, I found that one of the main considerations when a Bill should be referred to a Select Committee is that it contains points of details and matters of a technical nature. This Bill is necessarily a Bill of that type. It contains so many details and so many provi-

[Dr. Raghubir Sinh.]

sions of such technical nature that for them to be deliberated upon in such a big House it not very possible.

श्री मेथिलीशरण गुप्त (नाम निर्देशित):
क्या कोरम है ?

DR. RAGHUBIR SINH: He asks whether there is quorum or not. It is for you to say.

MR. DEPUTY CHAIRMAN: There is quorum.

DR. RAGHUBIR SINH: The submission therefore is that this Bill should have gone to a Select Committee—more necessarily, if you could possibly permit it, to a Joint Select Committee but I cannot possibly press for that; but I do think that the Bill should go to a Select Committee for consideration.

THE MINISTER OF STATE IN THE MINISTRY OF EDUCATION AND SCIENTIFIC RESEARCH (DR. K. L. SHRIMALI): I shall be grateful if the hon. Member will enlighten me as to what the matters are which are agitating his mind, which has led him to suggest that the matter should be referred to a Select Committee.

DR. RAGHUBIR SINH: Sir, I would only request the hon. Minister not to be so impatient. He will have everything and I have already said in the beginning that it is a matter of principle that I am asking for it. For I expect that when we resort to these means, when we resort to parliamentary methods, we have to lay down some really sound conventions. Democratic methods do not merely mean a form only; it is very much a question of spirit as well and when I go on dealing with that point, I would have clarified the points on which necessarily I want the House to take into consideration and see if they can concede my request for a Select Committee.

SHRI AMOLAKH CHAND (Uttar Pradesh): You want a Select Committee of this House or of both the Houses?

DR. RAGHUBIR SINH: I have already pointed out in the beginning that I can only request for a Select Committee of this House and that too only if the hon. Minister agrees; and that is why I was very much wishing that Maulana Saheb would have been here, I would then have been able to plead with him with all the earnestness at my command. Now, I can only expect that the request may be conveyed, properly, duly and sympathetically.

MR. DEPUTY CHAIRMAN: Anyway there is no amendment from you.

DR. RAGHUBIR SINH: Unfortunately, I was not here on the day when this motion was moved and the only reason why I was not here was that I was otherwise unavoidably imperatively kept at home.

DR. K. L. SHRIMALI: I was trying to find out the points which are agitating him but he is not coming to them.

DR. RAGHUBIR SINH: I cannot educate the Education Minister in being a little more patient. The point is this. I have requested for this Bill being sent to the Select Committee. I might also mention that I did go with an amendment in that respect and I submitted it to the Secretary but he was of the opinion that obviously enough at this stage it may not be possible for him to entertain it unless the House specially permitted that. So I can't talk of that amendment now without the House agreeing to it.

SHRI AMOLAKH CHAND: Has the hon. Member given notice of that amendment?

MR. DEPUTY CHAIRMAN: No, that is what I told him.

SHRI AMOLAKH CHAND: He says that he has already given.

MR. DEPUTY CHAIRMAN: What transpired between you and the Secretary is not relevant here. What is relevant is that there is no amendment here.

DR. RAGHUBIR SINH: I was not here when it could have been given notice of.

MR. DEPUTY CHAIRMAN: The Bill had been placed on the Table of the House so many days before. You had ample time. Nothing prevented you from sending any amendments.

DR. RAGHUBIR SINH: Well, what has not been done before cannot be done now. I am only raising this question in this House for the House to take it into consideration, if the House is in a mood to consider my request. I cannot possibly force its acceptance. I can only plead for its acceptance. What I am saying is that this Bill is a major Bill. It is a comprehensive Bill and a Bill of major importance. Probably, many of us may not realise its importance today, because many of us do not really feel very happy over that man who first initiated these very important proceedings—I mean Lord Curzon. But posterity would always be grateful to that man, and today we are only carrying forward that work of Lord Curzon by means of this Bill.

Coming to the various points in this Bill, which I want the House to take note of, first of all, I would bring to the notice of the House that the powers which the Bill seeks to vest in the Government in respect of monuments and sites and protected areas and those relating to the compulsory purchase of the same or of antiquities are of a very sweeping nature. I do know many of these powers have been copied from the previous Act. But from the very nature of things, they have as yet not been tried in full. We are all aware that since as recently as some years back, we have had a good deal of what we may call deterioration in the standards of the officers. There has been good deal of corruption and there has also been much misuse of all such powers. For these reasons, I would very much wish that this question, as to whether all these powers that are now being given are really very necessary and whether any possible contrivances or checks can be

put in by which it can be fully ensured that these powers are not misused, is considered in fullest details. There should be a full and thorough investigation of all these aspects of the matter. That is very very necessary. As you know, this is a question where we are vesting the Government with wide powers. These wide powers would not only be given to the archaeological officers but they would be given to the revenue officers also. As such it is very much possible that the lower revenue officers may sometimes misuse these powers. There may be cases of corruption. What have we got to guard against that? These are the misuses which do not very often come to the surface and quite often they go unnoticed and unchecked and even, I think, completely unpunished. Therefore, we have to ensure that these powers that we are giving fully to these officers are the powers that are really very necessary. We should see that no loop-holes are left therein and there is no possible misuse.

DR. K. L. SHRIMALI: Which clause is the hon. Member referring to?

DR. RAGHUBIR SINH: For instance, the clauses which deal with land acquisition and those relating to compensation.

SHRI KISHEN CHAND (Andhra Pradesh): Clauses 5, 7 and 8.

DR. RAGHUBIR SINH: If the hon. Minister wants them, I can give all the various references, but I thought the hon. Minister knew all these clauses by heart by now.

MR. DEPUTY CHAIRMAN: But you must tell him what particular clauses you are objecting to.

DR. RAGHUBIR SINH: There are very few clauses where this land acquisition question comes in and I thought the Minister would . . .

MR. DEPUTY CHAIRMAN: But you must point out where he has gone wrong.

DR. RAGHUBIR SINH: I am only pointing out where the loop-holes are.

MR. DEPUTY CHAIRMAN: You are making vague allegations against the Minister.

DR. RAGHUBIR SINH: I have made no allegations against the Minister. I am only referring to the possibility of misuse, I am not saying that the Minister is going to misuse the powers, but the misuse may occur in the lower strata.

MR. DEPUTY CHAIRMAN: You have said that the powers given to the Central Government are very sweeping. You may point out to what clause you object.

DR. RAGHUBIR SINH: There is clause 13, then again there is clause 30. At least these clauses, I can give off-hand. And I think there are one or two other clauses also where certain powers are given to the Collectors and to the lower revenue officers. My point is that these things should be carefully examined before the House passes these provisions.

MR. DEPUTY CHAIRMAN: He wants to know what is your objection. You are an expert on this subject.

DR. RAGHUBIR SINH: I may be some sort of an expert in archaeological matters, Sir; I am no expert in revenue matters.

DR. K. L. SHRIMALI: What I want to know is this. There are these provisions which enable Government to acquire and protect the monuments so as to prevent the monuments from decaying, or where the private owners are not looking after them properly. Is the hon. Member suggesting that Government should not acquire and protect those monuments?

MR. DEPUTY CHAIRMAN: What is it that you object to?

DR. RAGHUBIR SINH: I am not objecting to the particular power that is being asked for. I said only this. There are two things to be examined in this respect. Is this the minimum power that is necessary for this purpose? That is number one. Secondly, whether any proper arrangements are being made or does the hon. Minister propose that certain arrangements will be made by which the possibility of any misuse of these powers is prevented, by which it could be ensured that any such misuse of the same is no longer possible? This is what I want to say. These are matters of detail in which revenue matters will have to be thought of, and all persons who are likely to be affected, common men, Members can sit and think out and examine that matter in that light.

MR. DEPUTY CHAIRMAN: You do not want the power to be given to the revenue officers. Then tell him to what officers you would like this power to be given. Be more definite.

DR. K. L. SHRIMALI: What is the suggestion that the hon. Member wants to make? There is no use criticising the Bill unless there is also an alternative suggestion.

DR. RAGHUBIR SINH: I am not criticising it. I am only pointing out that these are the points which should be carefully examined. I am not saying that these powers should not be given. It is just likely that, if I were proposing it, I would probably ask for the same powers.

MR. DEPUTY CHAIRMAN: Then?

DR. K. L. SHRIMALI: The hon. Member himself confesses that if he were to propose such a Bill, he would himself have suggested these powers.

DR. RAGHUBIR SINH: But you forget the word "probably" that I used. I am in a rather little disadvantageous position in that I do not know how far administratively such powers are needed. He alone can say that.

SHRI P. D. HIMATSINGKA (West Bengal): The clauses make it clear.

DR. K. L. SHRIMALI: Clauses 13 and 14 are very clear.

DR. RAGHUBIR SINH: But sometimes things which seem very clear, they lead to the biggest, or, I would say, to the most intriguing things. We have had a very simple example in the recent past and I need not go further into that point.

The next . . .

SHRI BHUPESH GUPTA (West Bengal): What is that example?

DR. RAGHUBIR SINH: Well, I never thought that my hon. friend on the other side had not got that much imagination.

SHRI BHUPESH GUPTA: But it must be helped. What is that example?

MR. DEPUTY CHAIRMAN: He never thought you would be interested in archaeology.

SHRI BHUPESH GUPTA: I could not catch it. May I please be enlightened on this example?

DR. RAGHUBIR SINH: I now come to my next point. The need for such a revised Bill cannot possibly be denied. As I said earlier, the last enactment that was passed was in 1904. At that time, the administrative structure was different; the constitutional position was different. Conditions have changed completely since then. First of all, we had the provincial autonomy and later on, we have had the new Constitution and so, the various administrative provisions made in the Act of 1904 cannot possibly be continued any more. As such, a revision of the Act was really very necessary. I find from the debate that has already taken place on this Bill on the previous day that more than once stress has been laid about the supposed confusion that has been caused in the State field in respect of these

monuments. I find, Sir, that some of our ex-Chief Ministers have also said the same thing. I do not know whether the confusion was really anywhere excepting in the minds of the people who say that there is confusion. After the Constitution was adopted, the position became clear that the Act of 1904 was going to be made monuments only which had been or were to be declared to be of national importance. As such, if certain State Governments did not do anything or could not do anything, it was due to their own lack of initiative and due attention or to their not really attaching all the importance that this matter necessarily deserved. That is why things have happened there in that way. They could have readily adopted this Act of 1904 so far as their State monuments are concerned, *mutatis mutandis*, without any difficulty, pending the necessary comprehensive State legislation. I do not agree, Sir, that all this confusion has been there because of this Act not having been revised earlier. I do admit, Sir, that lack of coordination has created certain difficulties for the Union Government which the hon. Minister has admitted, and in those respects, I do agree with him that the revision of this Act was very very necessary. My only complaint which I voiced earlier also is that this new Bill does not appear to be in due conformity with the correct perspective of the immediate past. There is a long history behind all these monuments now under the protection of the States and those under the protection of the Union Government. In the 1935 Government of India Act, the entry was a simple one. The protection of the ancient monuments was then not left to the States. Accordingly, when the Union Powers Committee met and prepared its Report, it also put in the same entry which was there before, namely, ancient and historical monuments, archaeological sites and remains. But, Sir, later, those of the Members who were in the Constituent Assembly, will remember that when this provision was being adopted, the

[Dr. Raghubir Singh.]

States were rather hesitant to hand over all these powers to the Union Government. They were very insistent that only those monuments which were of national importance should be handed over to the Union Government and that the rest should be left to the control, management and protection of the States. I believe, Sir, they were very right because I find that the Central Government does not necessarily quite often have the proper perspective in respect of the monuments which may be of provincial importance only. We have got the corresponding case of what we call the national histories and the regional histories; a thing may be of national importance and it is bound to be of provincial importance all right, but a thing or personality or an event which is of provincial importance need not necessarily be of national importance as well. As such, a constant complaint has been there, and some time back when I visited many of these old monuments and sites, I felt and found that some of these monuments were being neglected by the Central Government because the Central Government did not necessarily give that much of importance to these monuments as they were obviously enough not of very great national importance. Therefore, Sir, the States very rightly insisted that there should be a clear-cut demarcation of the different sphere of the Union monuments as distinct from those in the protection of the States and, therefore, the original entry proposed by the Union Powers Committee was duly amended. It was then decided that the monuments to be taken over by the Centre should be individually named by the Parliament. It was felt that the scope of the Union Government and the Central Archaeological Department should be restricted to those monuments only which are thus declared by Parliament to be of national importance. My contention now, Sir, is that this Bill which has been drafted after only ten years of Independence does not necessarily take due note of the possibilities of there being monuments under the protection

and control of the State Governments. Therefore, Sir, I find no provision in the Bill for the transfer of the control of the monuments that are now under the Union Government and the Union Archaeological Department to the control of the State Governments and *vice versa*. This possibility is there and this should be duly provided for. I am quite positive that there are or are going to be cases where the monuments now under the protection of the Union Archaeological Department may be handed over back to the private parties. There should be a definite provision that in the case of those monuments which are going to be thus denationalised and may be handed over back to the persons to whom they originally belonged, the State Governments should necessarily be consulted on the subject and they should be offered an opportunity of first refusal in respect of these monuments. I know, Sir, that the State Governments have been very slow and slack in respect of discharging this responsibility of theirs. It is very clearly known that there are only a very few States which have so far passed the necessary legislation on the subject, but I am sure, Sir, that with all the prodding and with all the persuasion and with all the efforts of the Central Education Ministry in this respect, the State Governments will now take proper measures and will pass the necessary legislations in this respect. Therefore, any comprehensive Bill that is to be passed by this House must take due note of all those definite possibilities. In this respect, Sir, I feel that provision should be made in this Bill for the transfer of monuments under the charge of the Central Government to the State Governments or *vice versa* whenever any need is felt that way.

Taking the clue from this matter and going further in this respect, I feel, Sir, that by the Seventh Amendment to the Constitution, we have decided to give the power to the Central Government for declaring any monument to be of national importance. By that, Sir, we have gone a long way off but,

at the same time, I think it is very necessary . . .

SHRI V. K. DHAGE (Bombay): Dr Raghbir Singh may continue in the afternoon, Sir.

MR. DEPUTY CHAIRMAN: Yes, let him finish this sentence.

DR. RAGHUBIR SINH: What I think, Sir, is that even when we have given the necessary powers, we cannot completely abdicate all the control that we have had so far. Formerly, according to the Constitution of India that was accepted by the Constituent Assembly, every one of the monuments was to be separately named by Parliament. When we have given these powers to the Union Government, we should make it necessary that all those notifications that are issued either accepting or denationalising any of these monuments should be placed on the Table of the two Houses so that . . .

MR. DEPUTY CHAIRMAN: You will continue in the afternoon.

THE BUDGET (RAILWAYS), 1958-59

THE DEPUTY MINISTER OF RAILWAYS (SHRI SHAH NAWAZ KHAN): Sir, I beg to lay on the Table a statement of the estimated receipts and expenditure of the Government of India for the year 1958-59 in respect of Railways.

MR. DEPUTY CHAIRMAN: 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, THE VICE-CHAIRMAN (SHRI M. B. JOSHI) in the Chair.

THE ANCIENT MONUMENTS AND ARCHAEOLOGICAL SITES AND REMAINS BILL, 1957—continued

DR. RAGHUBIR SINH: Mr Vice-Chairman, Sir, when the House rose I was dealing with the question of the imperative necessity of the notifications, that may be made by the Central Government under clause 4 on the one side and clause 35 on the other, being placed on the Table of both the Houses so that Parliament could have an opportunity to amend, alter or cancel them. Sir, as I pointed out earlier, one of the fundamental facts which emerged from the Constitution of India was that Parliament was given the power to name each and everyone of the monuments which were to be declared to be of national importance. When this power is going to be given now to the Union Government I feel it is very necessary that these notifications should be placed on the Table of both Houses of Parliament so that Parliament could have an opportunity to look into these matters, if it so wishes. I agree that the original procedure as embodied in the Constitution was neither very good nor very convenient. It was a hampering procedure and much inconvenience would have been caused and much harm would have been done to the cause which it was sought to serve, but it is very necessary now that this power is subject to a proper check and due control by Parliament.

Now, I want to come to another point about the two omissions that have been made in the present Bill but which were there in the original Act of 1904. Firstly, I refer to section 17 in the original Act relating to the power of the Central Government to control traffic in antiquities and, secondly, to sub-section (2) of section 20 also in the original Act. The provisions contained in these two sections do not appear anywhere in the new Bill. I know I will be told that the Act that was passed in 1947, Act XXXI of 1947, the Antiquities Export Control Act, 1947, would be able to cover this need in respect of section 17. I have carefully examined that Act in collabora-