

the wisdom of locking up in foreign exchange reserve resources to the extent of Rs. 200 crores. Of this, Rs. 115 crores is in gold and Rs. 85 crores in foreign assets which in a time of emergency could be drawn upon. I do not know what the hon. Member means. I think it is more prudent to have some such thing for any emergency when it could be drawn down as we have done in the present Act.

As regards the question of foreign investment, he vaxed eloquent over this matter. He asked how much money the Birla delegation spent outside. I do not know, but some of our public men like to be guests of foreign governments. I do not know how much money they have spent. If the hon. Member asks a question, if it is available, we will collect it and give him. But it is not a very big sum. That is not a very big issue. I know that the hon. Member does not like private foreign investment, but the Government have a definite policy and that policy has, from time to time, been amplified and precisely stated by senior Members of the Government. It is not anything over which the hon. Member need worry himself or need let off so much steam. I think that there is nothing that the hon. Member has said in his long unusual third reading speech that needs any definite reply. All the replies have been given before. I only wish that he had participated earlier so that he could have been more precise in his points which could have been taken care of and replied.

SHRI BHUPESH GUPTA: I would like to ask a question whether it is a fact that recently the Government have increased the allocation to the private sector for the purpose of their imports of machinery and other things by Rs. 100 crores?

SHRI C. P. PARIKH: It is the reverse.

SHRI B. R. BHAGAT: Sir, I do not know wherefrom my hon. friend gets

this information about this matter of allocation. Firstly I don't think it is true, the insinuation is not correct. These allocations are made in the Licensing Committee or the Capital Issue Committee of the Cabinet. The matter goes to the Cabinet. There it is carefully scrutinised and I think even if there is a tendency it is in the reverse direction to the one pointed out by the hon. Member.

THE VICE-CHAIRMAN (SHRI RAJENDRA PRATAP SINHA): The question is:

“That the Bill be passed.”

The motion was adopted.

—
**THE OPIUM LAWS (AMENDMENT)
BILL, 1957**

THE DEPUTY MINISTER OF FINANCE (SHRI B. R. BHAGAT): Sir, I move:

“That the Bill further to amend the Opium Act, 1878 and the Dangerous Drugs Act, 1930, as passed by the Lok Sabha, be taken into consideration.”

Sir, this is a simple and non-controversial Bill which has become necessary as a result of a decision of a High Court. The definition of 'opium' as given in the Opium Act, 1878 and the Dangerous Drugs Act, 1930 includes “the capsules of the poppy”—in botanical language *Papaver Somniferum L.* Until recently, the view was held that the crushed capsules of the poppy were also covered by this definition in the two Acts. This was also the view expressed by the Nagpur High Court in a criminal case which came before them. But in December 1955, a Division Bench of the Punjab High Court held in three criminal appeals that the crushed capsules of the poppy commonly known as poppy husk or *bhuki* do not come within the scope of the definition of 'opium', as given in the two Acts. As a result of this decision, the State Government are not able to exercise any control over the import into and sale in the State, of poppy

[Shri B. R. Bhagat]
 husk. In the Punjab State, poppy or poppy heads are cultivated under licenses issued by the State Government and the capsules which contain some morphine and have addiction producing properties are sold through licensed vendors. In certain other States also like Orissa, Andhra Pradesh and West Bengal, poppy husk is also imported from other States and is used by opium addicts for preparation of a decoction thereof. The Government of India have already taken a decision to eliminate the consumption of opium except for medical or research purposes, after March, 1959 and with a view to implementing this decision, the supplies of excise opium to the State Governments are being reduced progressively by 10 per cent. every year. With the gradual reduction in the supply of opium, the consumption of *bhuki* by opium addicts is likely to increase as has been noticed in the Punjab. This would undermine the policy of prohibition of narcotics which has been adopted by the Central as well as the State Governments. The Punjab Government have, therefore, urged strongly that the definition of opium in the two Acts should be amended so as to include the crushed capsules of the poppy also. There is also considerable public opinion in the Punjab against the uncontrolled sale and consumption of *bhuki*. Many public leaders have spoken that this use and sale of crushed capsules or *bhuki* should be banned. Therefore, it is proposed to amend the definition of opium given in these two Acts so as to put the position of such capsules, crushed or powdered beyond doubt.

Then Sir, with the gradual reduction in the supply of opium for oral consumption, the tendency to smuggle both from the growing areas as well as from outside is likely to increase. Up to 1956, there was very little of smuggling of opium from Pakistan across the land frontier, but recently several cases of smuggling of opium from Pakistan have come to notice. It has, therefore, become necessary to tighten up control over smuggling.

The 1878 Act was chiefly intended to enforce the State monopoly in opium and was mainly conceived as a measure for the protection of excise revenue from opium. The scale of punishments provided in this Act was conceived as punishment for revenue offences. The position has since changed considerably. Opium is now regarded much more as a dangerous drug and the offence of illicit traffic in this drug is looked upon not as a revenue offence but as a criminal offence, being an offence against public health and it is a social offence, I might say. The records of action actually taken in regard to offences relating to the dangerous drugs, however, reveal, that the magistrates are often content to let them off, on conviction with fines. Under the various international conventions relating to narcotics, the Government of India are under obligation to take effective measures for the prevention of illicit trafficking in narcotic drugs. We are a party to these international agreements and because present punishments are not enough, or rather because the punishments are not deterrent enough, this international smuggling takes place.

DR. R. B. GOUR (Andhra Pradesh):
 The smugglers are no party to the agreement.

SHRI B. R. BHAGAT: That is true. But smugglers may be taking it from India, or they may belong to India and therefore, the moral obligation of the Government comes in. Therefore, as I was saying, with regard to the position of the country outside, in international conferences, we are liable to be criticised if we are not able to prevent the smuggling from its very source where the smuggling takes place from Indian territory, or even Indian nationals may be involved. From all these points of view, the responsibility of the Government concerned is there.

The All India Narcotics Conference which was held in Simla last year and which was attended by representatives from almost all the States in

India, unanimously recommended that steps may be taken to enhance the punishments provided for the various narcotic offences. The United Nations Commission on Narcotic Drugs at its twelfth session held in April-May, 1957 also urged the Governments to increase their efforts to detect and suppress the illicit production and illicit manufacture of drugs and strengthen the measures for apprehending traffickers and to impose on persons convicted of narcotic offences very severe penalties in every country. Therefore, in view of these recommendations, it is considered necessary to enhance the punishment of imprisonment for a period of 3 years where only one or two years have been provided, so that the offences may become cognizable, and also to make the award of imprisonment on conviction, mandatory.

At present only the State Governments can authorise the officers of the departments of Excise, Police, Customs, Salt, Opium or Revenue to exercise the power of entry, search, seizure and arrest in connection with narcotic offences. In order to tighten anti-smuggling measures, it is necessary to authorise not only the officers of the concerned States but others also. In addition to this, in order that any anti-smuggling operation may be more effective and successful, because both the area and the organisation of smuggling are not confined to States but cross the borders, therefore, it is necessary to have some centralised direction and operation against these smuggling activities. Therefore, whereas at present only the State Government officers are having certain powers—the power of entry, search, seizure and arrest—we want to give these powers to the Central Government officers also in this respect.

Hon. Members will observe that the proposed amendments are only intended to tighten up our control over opium and other narcotic drugs and I have no doubt that this object will

find support from every hon. Member of the House.

With these words, Sir, I move.

THE VICE-CHAIRMAN (SHRI (RAJENDRA PRATAP SINHA): Motion moved:

“That the Bill further to amend the Opium Act, 1878 and the Dangerous Drugs Act, 1930, as passed by the Lok Sabha, be taken into consideration.”

DR. R. B. GOUR: *Mr. Vice-Chairman* . . .

SHRI B. B. SHARMA (Uttar Pradesh): Is he going to support the Bill or what?

DR. R. B. GOUR: The hon. Member might wait a little; then he will see what I am going to do.

Sir, this Bill though it looks a very innocent one is important and I would like to suggest to the hon. Minister certain very important matters which should be borne in mind in all such legislations.

[THE VICE-CHAIRMAN (SHRI M. B. JOSHI) in the Chair.]

Obviously he would find all of us in agreement with him that the punishment should be deterrent, that the definition should be changed etc. But what I wish to very seriously point out, as I have done in relation to other similar Bills in the past during this very Session, is that it is a very serious matter that you move in such matters after and only to the extent to which a certain High Court has taken a stand. This Opium law was passed in the last century. You have said that you want to control through this Bill other narcotics also. So far as this Bill is concerned, you are doing only two things, modifying the definition of opium to include *Bhuki* also and increasing the punishment; but the entire drug legislation of this country, the Dangerous Drugs

[Dr. R. B. Gour.]

Act and the rules under these various Acts are not sufficient enough to deal with the problem of narcotics and the traffic in them. Today with of course your own policy of prohibition, narcotics are playing a greater and greater role to replace alcoholics. In our country you may have an Opium law. You may have a Dangerous Drugs Act but have you got a proper Act to regulate the Pharmacies and the Pharmaceutical business in the country? Have you an Act or any rules or are the various State Governments completely armed with legislation to regularise the question of drugs and trade in and manufacture of drugs? This matter was gone into in pretty detail by the Bhole Committee as long back as in 1946 when the report was published. Even they had suggested legislation to govern, regulate and organise pharmaceutical business. They even suggested an All India Pharmaceutical Council, State Pharmaceutical Councils. In fact on the problem of so many narcotics, on a previous occasion also I had mentioned in this House how such a dangerous narcotic as Chloral Hydras is utilised to adulterate toddy or sendhi in Telangana and other areas. I have been asking the Health Ministry for the last two years to look into the matter and only recently they told me that they are only going to add certain schedules to the rules to include the antibiotics and such narcotics as Chloral Hydras. I do not know whether a mere addition of these narcotics to the schedule in the rules under the Drugs Act is going to meet the situation because even there it will be expected that the drug will be sold to such people who get a prescription from a registered medical practitioner. But then there are Pharmacies and Stores and there is no legislation that governs the trade and the pharmaceutical business or that can check them or regulate them. This question of traffic in narcotics has increased to an alarming extent particularly after the policy of prohibition. I don't know how the attitude—complacent attitude—of the Government can be ex-

plained that just by merely changing the definition of opium in the Opium law and increasing the punishment for the smugglers you are going to deal with the situation within the country. I quite understand that you are worried about certain obligations and engagements you have entered into in the international conferences about dealing with this question of opium but let us see how the health of our countrymen is suffering because of this blackmarketing in the pharmaceutical trade in the country. Have you any machinery to check the manufacture of the various drugs in the country—tonics and such other things. Do you know or do you have a machinery to check whether the proportion of the narcotic in that particular tonic or medicine—patent medicine—is always to the mark that they generally proclaim or whether under the garb of such manufacturing concerns, under the label of such a patent, this trade in narcotics is going on? My point is that the situation in the medical world has changed. New drugs have come into existence, new narcotics have been invented and are being sold. So it is not merely a question of opium or this or that particular drug. It is a question of taking stock of the developments that have taken place in the medical world, in the drug world, during the last so many years since the Dangerous Drug legislation was passed in this country. So I would submit that this legislation, however innocuous it may look, however non-controversial it may appear to be, but nevertheless I should say, is not enough to deal with the situation because Opium is not the only narcotic, *bhuki* is not the only narcotic and smugglers are not the only people who are to be tackled in this particular respect. I think the Government have so far neglected this entire question of examination of the entire drug manufacturing trade in this country and the whole thing has to be gone into and the trade and the drug legislation in our country has to be brought upto date after careful examination of the situation in the country.

श्री देवकीनन्दन नारायण (मुम्बई) :
 उपसभाध्यक्ष जी, जो विधेयक सदन के सामने है, उसका मैं "बैटर लेट दैन नैवर" के लिहाज से तहेदिल से स्वागत करता हूँ, हालांकि यह बात ऐसी थी जो बहुत पहले ही थी। मगर इस देश में ऐसा कुछ रिवाज होता आया है और आज भी है कि जो बात पश्चिम से या अन्तर्राष्ट्रीय ढंग से यहां पहुंच जाती है उसका स्वागत किया जाता है। वरना १९२१ से कांग्रेस ने इस प्रोग्राम को अपनाया हुआ है कि अफीम, गांजा, शराब, इन चीजों पर बंदी हो जानी चाहिये। इसके लिए काफी प्रयत्न हुए हैं, काफी त्याग हुआ है और कांग्रेस आज तक लड़ती आई है, परन्तु आज भी अफीम जैसी चीज बन्द नहीं की जा रही है। सन् १९५६ के मार्च ३१ या अप्रैल १ से पूरी बंदी या पूरी रूकावट अफीम पर की जायेगी। मैं मंत्री महोदय से पूछना चाहूंगा कि यदि अफीम बुरी चीज है तो उसके लिए १ अप्रैल, सन् १९५६ की क्या जरूरत है। अफीम उसने पहले ही या आज ही क्यों नहीं बन्द कर दी जाय।

श्री राज बहादुर गौड़ : १ अप्रैल बहुत ही सिगनीफिकेंट डे है।

श्री देवकीनन्दन नारायण : वह मुझे मानूम है
 It is April fools' Day. It is nearer to you, is it not?

DR. R. B. GOUR: No, to you.

SHRI DEOKINANDAN NARAYAN:
 No, not to me, because you have reminded me of it. I was not remembering it.

तो मैं यह कह रहा था कि जिस चीज को हम वर्षों से बन्द करवाना चाहते आये हैं, जिसके लिए महात्मा गांधी वर्षों से इस मुल्क में कहते आये, मेरी समझ में नहीं आया कि उसके लिए अप्रैल १, १९५६ तक रुकने की क्या आवश्यकता है।

इस विधेयक में इतना ही कहा गया है कि आज तक जो अफीम की व्याख्या (Definition) थी, उसमें कुछ तब्दीली हो जाय और जो पाँपी पाउडर इसमें शामिल नहीं है, वह हाई कोर्ट की निगाह से व्याख्या में शामिल कर दिया जाय। हमें यह बहुत दिनों से पता है और हमने यह देखा है कि तम्बाकू जिस तरह से हुक्के में रख कर पी जाती है, उसी तरह से यह पाँपी पाउडर तम्बाकू में मिला कर हुक्के में पिया जाता है। यह तमाम हिन्दुस्तानियों को मालूम है, परन्तु सरकार की निगाह में यह नहीं आया जब तक कि हाई कोर्ट ने इस ओर ध्यान नहीं दिलाया। हाई कोर्ट के कहने के बाद हम जाग्रत हुये हैं और अब हम इस विधेयक के द्वारा यह करने जा रहे हैं कि अफीम की व्याख्या में पाँपी पाउडर भी लाया जाय। ठीक है, बहुत खुशी की बात है कि इस बात को मान लिया गया कि जिसको हम आज तक अफीम मानते आये हैं उसके और भी रूप हैं और उससे बहुत कुछ नुकसान पहुंचता है। आश्चर्य इस बात का भी है कि अधिकतर अफीम इसी देश में पैदा होती है, अधिकतर अफीम की खेती इसी देश में होती है और इस देश से वर्षों से अफीम का व्यापार बाहर के देशों से होता आया है, फिर भी इन तमाम बातों के होते हुये हम लोगों की नजर में और खासकर सरकार की नजर में गत दस वर्षों में यह बात नहीं आई कि हम को इस बुरी चीज को बन्द कर देना चाहिये। इंटरनेशनल कांग्रेस से इसका सुझाव होता है और तब हम यह तय करते हैं कि १९५६ से इसे बन्द करेंगे। मुझे कुछ ऐसा डर लगता है कि जो बात बाहर से भेजी जाती है उसकी तरफ अधिक ध्यान देने की हमारी पुरानी आदत अब तक मौजूद है।

आपको पता होगा कि मैं बम्बई राज्य से आता हूँ। बम्बई राज्य ने १९३६ से प्रोहिबिशन के प्रोग्राम में अफीम को दाखिल किया। शराब

[श्री देवकीनन्दन नारायण]
के लिए उस राज्य ने प्रथम तो यह किया कि
दूकानों साल में कुछ दिन बन्द कीं, उसके बाद
उनकी तादाद कम की और फिर २५ परसेंट,
५० परसेंट और ७५ परसेंट उसे कम किया।
मगर अफीम जैसी चीज उस राज्य ने शुरू
से ही बन्द कर दी। इस बात को आज १५
वर्ष हो गये, मगर बम्बई राज्य में अफीम
बन्द कर दी जाने के बाद जो उससे लगे हुये
राज्य हैं, वहां से उसकी काफी स्मगलिंग होती
रही और उसके लिये पुलिस रखनी पड़ी है,
और केन्द्रीय सरकार इतना भी न कर
सकी कि यदि किसी एक राज्य ने अफीम
जैसी चीज को बुरी समझ कर बन्द
करना चाहा, तो वह उस राज्य की
स्मगलिंग रोकने में कुछ मदद तो करे।
इस प्रकार वहां स्मगलिंग होता रहा और
अब भी हो रहा है। अब यह कहा जाता है
कि अफीम सन् १९५६ से पूरी बन्द होने
वाली है, इसलिए सजा की तादाद कुछ बढ़ा
बी जाये। मैं इस लॉजिक को अभी तक
समझ नहीं पाया, परन्तु मुझे खुशी इस बात
की जरूर है कि सरकार एक कदम आगे बढ़ा
रही है और इस तरह अफीम इस मुल्क से जाने
वाली है।

आप इतिहास पढ़ेंगे तो आपको पता होगा
कि हिन्दुस्तान से अफीम का व्यापार बाहर
के देशों से कई वर्षों से होता रहा और बाहर
वालों ने एक तरह से इस व्यापार के लिए
हमारी निंदा तक की। बाहर की दुनिया को
हम इस व्यापार के मार्फत बहुत कुछ लूटते
हैं या उनसे पैसा कमाते हैं या बुरी आदत
डालते हैं। हमारी कम या ज्यादा बदनामी
होती रही, तब भी हम जागे नहीं।
परन्तु जैसा मैंने शुरू में कहा "बैटर लेट
दैन नेवर"। खुशी की बात है कि आज
सरकार यह तय कर रही है कि किसी तरह
से अफीम बन्द हो जानी चाहिये और बन्द
होने तक कुछ ऐसे कदम बढ़ाने चाहियें
जिनसे गुनाह करने वालों में आगे के लिये
एक तरह दहशत पैदा हो जाय और इसी

लिए दो वर्ष की सजा को तीन वर्ष किया जा
रहा है।

इसके बाद जैसा मेरे भाई डा० गौड़
ने कहा कि जो हम प्रोहिबिशन करने जा रहे
हैं उसमें सबसे बड़ी रूकावट यह पैदा होती
है कि ये मैन्युफैक्चरिंग ड्रग्स के जो कारखाने
हैं, इसके जो व्यापारी हैं, इसका जो उद्योग
करने वाले हैं, वे इस मामले में हमारे रास्ते में
बहुत दिक्कत पैदा कर रहे हैं। शराब हो,
अफीम हो या और कोई नरकोटिक चीजें हों,
सब में हमने देखा है कि ये ड्रग्स बनाने वाले
सारे हिन्दुस्तान को घोखा दे रहे हैं और
एक तरह से हमारे प्रोहिबिशन के काम में
दिक्कतें पैदा कर रहे हैं। आप देखिये कि
ड्रिक्स के नाम से, मेडिसिन्स के नाम से और
बहुत से नामों से, जो बदलते रहते हैं, खासकर
जिन चीजों के ऊपर सरकार ने बैन, रूकावट
लगा रखी है, उनका व्यापार नाम बदलकर
बड़े जोरों से चलता है। मुझे अपने प्रांत का
पता है कि किस तरह से वहां शराब पीने वालों
को अलग अलग नाम से ड्रिक्स मिलते रहते हैं,
और यह व्यापार इतना बढ़ गया है कि इस
रोजगार को रोकने के लिए यदि सरकार
ने कोई खास कदम न उठाये तो मुझे डर है
कि कानून कानून की जगह पर रह जायेगा
और बहुत सी बातें वैसी ही चलती रहेंगी
जैसी कि चलती आ रही हैं। इसलिए यदि
आप अफीम का व्यापार बन्द करना चाहते हैं,
अफीम का खाना पीना इस देश में बन्द करना
चाहते हैं, तो यह आवश्यक है कि इन चीजों
का ड्रग्स के नामों से जो प्रचार होता है उसके
ऊपर भी आप कड़ी निगरानी रखें।

यह खुशी की बात है कि डा० गौड़
और हमारे जो विरोधी पार्टी के भाई हैं,
उन्होंने एक तरह से इस बिल का समर्थन
किया। जब डा० गौड़ खड़े हुए, तो
मुझे डर था कि कहीं उनको ड्रिक्स से मुहब्बत
न पैदा हो जाये और वे इसका विरोध कर
दें, परन्तु खुशी की बात है और मैं उन्हें
धन्यवाद देता हूँ कि उन्होंने इस चीज के

मलेपन को मान लिया और इसका समर्थन किया ।

तीसरी बात स्मगलिंग को रोकने की है, क्योंकि जहां प्रोहिबिशन किया गया है, वहां स्मगलिंग से बहुत तकलीफ पहुंचती है । मुझे अपने राज्य का तजुर्बा है कि किस तरह आज का मध्य प्रदेश और पुराना मध्य भारत जहां अफीम ज्यादा पैदा होती है, वहां से हमारे यहां अफीम स्मगलिंग की जाती है ।

डा० राज बहादुर गौड़ : डा० रघुबीर सिंह उसकी मिसाल है ।

श्री देवकीनन्दन नारायण : खासकर इसीलिए भुसावल जैसे स्टेशन पर विशेष पुलिस कई वर्षों से नियुक्त की जाती है और आज भी मौजूद है, जो इंदौर की तरफ से आने वाले पैसेजर्स को तलाशती रहती है । इसमें काफ़ी दिक्कत पैदा होती है और काफ़ी पैसा सरकार का खर्च होता रहा है । अब केन्द्रीय सरकार की पुलिस और केन्द्रीय सरकार के आफिसर भी इस बात की ओर ध्यान देंगे । जहां तक मेरा खयाल है सन् १९५६ से स्मगलिंग का सवाल अन्तर्प्रान्तीय न रह कर अन्तर्राष्ट्रीय बन जायेगा यानी बर्मा या पाकिस्तान का मामला हो जायेगा और सरहद पर पुलिस रखनी पड़ेगी । परन्तु १९५६ तक, जब तक सारे देश में अफीम बंद नहीं की गई है, तब तक तो अन्तर्प्रान्तीय स्मगलिंग पर भी निगरानी रखनी होगी और उस काम में केन्द्रीय सरकार ने राज्य सरकारों को मदद देने का जो इसमें जरिया सोचा है, उसका भी मैं तहेदिल से स्वागत करता हूं । जैसा कि मैंने शुरू में कहा, हालांकि यह बिल देर से ही क्यों नहीं आया हो, लेकिन यह एक खुशी की बात है कि कुछ राज्य सरकारें इस बारे में पहले आगाह हो गयी थीं और आज हम उनके पिछलग्गू बने । कभी कभी राज्य सरकारें आगे जाती है और हम उनके पीछे चलने के लिये तैयार होते हैं ।

इन शब्दों के साथ मैं इस बिल का समर्थन करता हूं ।

4 P.M.

SHRI SANTOSH KUMAR BASU (West Bengal): Mr. Vice-Chairman, I find from the Statement of Objects and Reasons that this Bill has been occasioned by a decision of the Punjab High Court which has resulted in putting a large portion of opium capsules outside the purview of the Opium Act. Now these crushed capsules which have been mentioned in the Statement of Objects and Reasons, I understand, form a very large part of the drug which is in use clandestinely, surreptitiously, and to the great detriment of the health of the people concerned. It is this immediate necessity which is responsible for this Bill having been brought forward before the Legislature. It is therefore necessary that we should pass this Bill without any further controversy in order to fill the lacuna which has been created in the original Act by the decision of the Punjab High Court.

Now the larger issues which have been raised by my hon. friend, Dr. Gour, who has got a good deal of expert knowledge and experience about the use of this drug from his professional point of view, have certainly got to be taken into consideration by the Government. So far as the immediate purpose of this Bill is concerned, it is more or less of an emergency nature, to fill the lacuna which has been created by this decision. My hon. friend, Shri Deokinandan Narayan, has also drawn attention to the larger aspect of this question which I am sure Government will take into account for the purpose of bringing forward a more comprehensive measure before the House at a later date to meet those difficulties which may arise in future because of the larger use of these intoxicants. Sir, these difficulties have arisen to an alarming extent in some of the Western countries. We are told that in America even the adolescents and youths have been subjected to a large-scale use of these intoxicants with the

[Shri Santosh Kumar Basu.]
 result that the health and stamina of the entire nation are in jeopardy. Therefore before such a situation arises in our country, it is necessary that proper legislative measures should be adopted in order to protect our youth from such a dangerous situation. That indeed is a matter for the Health Ministry to take up, as my friend, Dr. Gour, has indicated in his observations. So far as this particular Bill is concerned, it is to meet a legal emergency which has arisen. From that point of view this Bill is certainly of a non-controversial character.

Now, Sir, there is just one other matter to which I would invite the attention of the hon. Minister. We find, Sir, that section 31 of the original Act is sought to be omitted. Section 31 of the original Act states as follows:

"No Magistrate shall try an offence under this Act unless he is a Presidency Magistrate or a Magistrate of the first class, or a Magistrate of the second class specially empowered by the appropriate Government in this behalf."

There was this safeguard in the original Act that only the higher magistracy could have jurisdiction to take cognizance of such offences. Now that is removed, and any Magistrate with even third class powers will have the right and the jurisdiction to try these cases. Apparently the intention is to make the trial of these offences easier in order that no criminal courts should be deprived of the jurisdiction of dealing with these cases when they come up before them. Now the power to make a search, to arrest and to enter a house has, to a certain extent, been enlarged by empowering the Central Government officers and employees to exercise such power. Therefore it is all the more necessary that suitable precautions should be taken so that innocent persons may not be subjected to conviction and punishment. And that requires that officers and courts of sufficient experience should be entrusted with the

trial of such offences. It is a question of safeguarding the civil rights of the innocent population who may not be subjected to false prosecutions and accusations.

SHRI B. R. BHAGAT: Does the hon. Member mean that by omitting section 31 even an ordinary magistrate would be empowered to try such cases? I think it is just otherwise. The present position is that a Magistrate of the second class may also try an offence punishable under the Dangerous Drugs Act, but by omission of this section no Magistrate who is not a Presidency Magistrate or a Magistrate of the first class will be able to try.

SHRI SANTOSH KUMAR BASU: The existing Act confines jurisdiction to try offences only to a certain category of Magistrates who enjoy high powers. Now if that is omitted, then that restriction is removed, and any Magistrate, whether he enjoys such powers or not, can try those offences.

DR. R. B. GOUR: You read section 31 of the parent Act.

SHRI SANTOSH KUMAR BASU: Well, it is on page 8 here. In any case, on principle I do not oppose this because it makes the trial of these offences easier so that other Magistrates also will be empowered to try these offences. But my contention is that the Government should be careful to see that because of the lowering of the jurisdiction no injustice is done to the accused persons, because there may be many people among them who may have been wrongly arrested and brought before the court. Therefore from the point of view of safeguarding the civil liberties of the people it is necessary to see that suitable arrangements are made for the prosecution to be carried out in an absolutely honest and *bona fide* manner, especially in view of the lowering of the jurisdiction of the trial courts. That is the only point to which I would draw the attention of the hon. Minister.

SHRI B. R. BHAGAT: Because the offences are cognizable and the minimum punishment is three years, they cannot be tried by any other magistrate. I am not a lawyer but I think the intention is obviously the same. We do not want them to be tried by anybody other than the Presidency Magistrates or first class magistrates.

SHRI SANTOSH KUMAR BASU: That struck me at first but, unfortunately, that does not appear to be the position. In the case of offences, where the maximum punishment is seven years, the magistrates sometimes try these cases, although their powers to inflict sentences do not go beyond two years of rigorous imprisonment and a fine or an alternative sentence of imprisonment. Therefore, the maximum punishment on a particular offence does not limit the jurisdiction of the magistrate to try it. He can only impose sentences that are open to him to impose but that does not preclude the magistrate from taking up the trial of an offence which carries a much higher sentence, so that although the sentence is raised from two years to three years, that would not preclude a Third-Class Magistrate from trying the offence. That seems to be the position. Therefore, I think, now that this section 31 is going to be omitted, special care ought to be taken about prosecutors, prosecuting officers or prosecuting lawyers, so that no injustice is done to an innocent person by way of harassment and false prosecution by an 'unscrupulous officer' who is entrusted with the task of search, arrest and prosecution. Otherwise this measure contains nothing which should raise any objection in this House and we ought to welcome it.

SHRI P. D. HIMATSINGKA (West Bengal): What is the correct position?

SHRI B. R. BHAGAT: Sir, I am advised by the legal experts that schedule II of the Criminal Procedure Code provides that such cases can only be tried by the Presidency Magistrates or first-class magistrates.

That is all that I can answer. But the hon. member is an eminent lawyer himself. I can only say that that is our advice. I cannot say anything more than that.

SHRI SANTOSH KUMAR BASU: That may be. I have to look up the Criminal Procedure Code in this connection.

In that case is it contended that section 31 is redundant because the provision is already there in the Criminal Procedure Code that no magistrate other than a Presidency Magistrate or a Magistrate of First-Class power can try such cases. I do not think it is so, but I shall look up.

SHRI B. R. BHAGAT: This is the case.

SHRI SANTOSH KUMAR BASU: It may be looked up.

SHRI BISWANATH DAS (Orissa): I rise to congratulate the High Court of Punjab for having upset the illegal operation of an outmoded law. Sir, I thought that my friends taking advantage of this decision would come forward with a Bill before this House so as to conform the Bill with our declared policy of prohibition of opium in full throughout the country. Sir, I must frankly confess that I have been thoroughly disappointed, and I regard this Bill, not a Bill, not a legislation over which my friends have given their mind. If they had done, I have no hesitation to say that not only I but all the members of this House would have received it with encomium.

Sir, vested interests of an official character had been created during the long operation of this Act. This Act was partially amended in 1878, that is, after the Government of England took over India for their administration. I do not know why and how our friends thought it wise to come forward with an amending Bill. I call it as 'sop' because the Bill merely enhances penalty and confers

[Shri Biswanath Das.]
 dangerous powers, very essential and important powers, on persons on whom I cannot rely. Therefore, these considerations are unhappy. But more unhappy are my thoughts, when I think of this, and I also think of the place of prohibition that we have given in this country. This is a Bill not to prohibit manufacture of opium but to regulate it. Sir, as long as regulation goes on, there will be clandestine acts.

DR. R. B. GOUR: We need morphia for medical purposes.

SHRI BISWANATH DAS: I am coming to it I crave for patience. When I talk of prohibition I do not talk of prohibition even for medical purposes. Do provide for that. That would come as a rider and not as the main or the principal item. My friends have no time to attend to all those important questions which we have given a place to the country.

Sir, if drink is an evil, opium is a deeper evil. To a certain extent I would tolerate drinking of toddy on grounds of nutrition. The Adibasis take some forest herb which they say is healthy and has food value. Whatever be the contention, it is less offensive than opium. Therefore, why regulate this wretched thing? Why not seal it for all times to come, bury it underneath, providing, of course, for what is necessary for medical purposes—as Dr. Gour pleading—for medical men and medical practitioners.

Sir, today from the literature available I find that India is the biggest producer and manufacturer of this evil, biggest manufacturer of this evil, biggest producer of this evil. Out of the 11 countries that we have including the USSR, India produces most, manufactures most, exports most and eats most. Sir, when we were students we were laughing in our sleeves calling China a nation of opium-caters. What it is today? China has metamorphosed, has changed, has transformed

and we are still lingering under this regulation of an outmoded act. I would, therefore, appeal to my friends not to rely on the officials because as I have said vested interests have been created in the official circle and that will continue to exist as long as we have this practice. They would not go as long as you have this amendment. I want them to bury it deep.

DR. R. B. GOUR: They won't go as long as the Government is there.

SHRI BISWANATH DAS: That would not go as long as your attitude is not changed. Therefore, I would plead with my friend to have prohibition of opium. Looking through the report on the working of the Act, I am amazed to find that 82,000 acres of land have been set apart for opium cultivation. A country like India is going with a beggar's bowl from country to country for food and yet 82,000 acres have been set apart for this wretched cultivation. Why? If you want to control, even in the interests of control, I would say that licensing and leakage always go together. If you have licensing there is bound to be leakage. You can have any number of penalties, any number of provisions, but they will be just on paper, because the officials who are in charge of it are not what they ought to be. On paper there is prohibition, you ask for opium, you can get it anywhere. You cannot prohibit the use of opium by enhancing the price. It is impossible; it is unthinkable. Therefore, I would plead with my friend to change the ways of the administration, so as to adjust it to the pledge we have given, to the great ideals that we have before us, viz. the prohibition of drink and the prohibition of opium and other intoxicants. Moneymaking and prohibition would not go together. They go ill together. Each State is making money out of this; the Centre is making money out of this.

SHRI SHEEL BHADRA YAJEE (Bihar): We want money also.

SHRI BISWANATH DAS: Yes, but then why prohibition? Scrap prohibition and you can get in crores. If you want prohibition, you will have to forego this money and something more—both the States and the Union. Therefore I stand on what I said that money and prohibition go ill together. In this view of the question, I am not opposed to this, but I must express my unhappiness over the Bill and can support the motion of my friend only with the utmost unwillingness.

SHRI B. R. BHAGAT: Mr. Vice-Chairman, I am sorry that the hon. Member who has just preceded me could not be satisfied with the measure before the House. He is unhappy over it. With all humility, I may point out to him that, although we are not discussing prohibition at present, the policy of the Government about prohibition is fairly well-known and I need not dilate on that. I may point out that a Bill like this does not go in the opposite direction to the policy of prohibition.

THE VICE-CHAIRMAN (SHRI M. B. JOSHI): He merely regrets the delay.

SHRI B. R. BHAGAT: About the delay, the other hon. Member, Shri Deokinarayanji, also referred to it. He asked, "Why not now? Why wait till 1959?" We entered into this international agreement Convention as long back as 1953. If our revered friend could have pressed with a little more strength, Government might have gone to the International Conference and would have tried to revise the Convention. I only plead with him that as a responsible Government and as an honourable country as India is, when we have committed ourselves to an international agreement about the use or the restriction of opium to terminate on a particular date, would it be worth while and desirable that we should break away from it unilaterally?

SHRI DEOKINANDAN NARAYAN: If it is good, why should it not be done before that date?

SHRI B. R. BHAGAT: What we want to do in the domestic field, we want to do in the international field. We want to persuade the other countries and do things in agreement. The point of substance is that we have travelled far enough. Only a little part is left, and March 1959 is not far away and then this disease will be no more. But even then the need for opium is there for medicinal use, for research, and for various alkaloids. The hon. Member who preceded me spoke very feelingly that so much land is being wasted over this cultivation of opium. That is true, but it is also a fact that this cultivation is going down progressively. Only in certain areas we are cultivating and the area of cultivation has gone down and in future, that is, after March 1959 ...

SHRI BISWANATH DAS: Why cannot the Government take this over themselves? Why give it to licensees?

SHRI B. R. BHAGAT: It is not considered so important that the Government should take it over. There might be other difficulties, if the Government takes it up themselves.

DR. R. B. GOUR: Then Ministers will begin to take opium.

THE VICE-CHAIRMAN (SHRI M. B. JOSHI): It is only in a light mood.

SHRI B. R. BHAGAT: I would submit that the future cultivation will be restricted to our expert needs, for research, for medicinal use and various alkaloids. It would not be for anything else.

I am grateful to the hon. Member, Shri Basu, for having lightened my task, because he has replied to the points raised by Dr. Gour. Rather he amplified the point of view that the Bill seeks to achieve. Regarding the point about the omission of section 31 I am now in a better position to say, because I have got the Criminal Procedure Code, Schedule II, page 314. It

[Shri B. R. Bhagat.]
is punishable with imprisonment for three years and upwards but less than seven years, and it will be tried by a court of Sessions, Presidency Magistrate or a Magistrate of the First Class.

SHRI P. D. HIMATSINGKA: That refers to the penalties in the Indian Penal Code. Special laws are excluded by section 1.

SHRI B. R. BHAGAT: Offences against the other laws are not in the Penal Code I am not a lawyer, but I think I am now fully advised by my legal experts that this provision is necessary. I only want to say that his intention and our intention is the same.

Next I come to the point raised by Dr. Gour who spoke with a certain amount of knowledge in this field. I agree with him that it is not enough if we take power to deal with this problem, but we should implement it in a more competent manner. I think there should be better realisation in the country and the Government also should be more alive, that the machinery should be better geared up for the better implementation of these social laws, as I would like to call them.

One point that he made was: What about the pharmaceutical laws? What about the control of the other drugs? This Bill is concerned only with opium or the dangerous drugs and the other derivatives of opium. As for the other drugs, I would only say that they come under the purview of the Health Ministry and there is, as the House knows, a Drugs Act. The hon. Member also referred to the appointment of a committee—the Pharmaceutical Committee. Their recommendations at present are being examined and I think I will forward the suggestions of the hon. Member to the Health Ministry.

I agree with him that in all these matters there should be better alert-

ness and the machinery should be better geared to the task and the enforcement should be more effective. With these words, Sir, I conclude my remarks and commend the motion.

SHRI SANTOSH KUMAR BASU: A reference to the Criminal Procedure Code shows that the hon. Deputy Minister's interpretation is quite correct. So far as section 31 of the old Act is concerned if the offence is punishable with sentence of three years or more, then it can be tried only by a presidency magistrate or a first class or second class magistrate. Other laws here mean laws other than the Indian Penal Code. That clears the position as the hon. Deputy Minister has explained. So I stand corrected.

THE VICE-CHAIRMAN (SHRI M. B. JOSHI): The question is:

"That the Bill further to amend the Opium Act, 1878 and the Dangerous Drugs Act, 1930, as passed by the Lok Sabha, be taken into consideration."

The motion was adopted.

THE VICE-CHAIRMAN (SHRI M. B. JOSHI): Now we take up the clause by clause consideration of this Bill. There are no amendments.

Clauses 2 to 9 were added to the Bill.

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

SHRI B. R. BHAGAT: Sir, I move:

"That the Bill be passed."

THE VICE-CHAIRMAN (SHRI M. B. JOSHI): The question is:

"That the Bill be passed."

The motion was adopted.