

**THE REPEALING AND AMENDING
BILL, 1956**

THE MINISTER OF LAW (SHRI A. K. SEN): Sir, I beg to move:

"That the Bill to repeal certain enactments and to amend certain other enactments be taken into consideration."

This is one of the periodical measures which were necessary in order to keep our statutes up-to-date. Various statutes undergo amendments, repeals, and so on. In order to consolidate all those amendments in the form of one statute, this is one of the periodical measures that are brought before the House from time to time. Sir, I move.

SHRI BHUPESH GUPTA (West Bengal): Sir, I would like the hon. Minister to explain a little further. We are aware that. . . .

MR. CHAIRMAN: That will do.

SHRI BHUPESH GUPTA: I would not speak on this.

MR. CHAIRMAN: Motion moved:

"That the Bill to repeal certain enactments and to amend certain other enactments be taken into consideration."

Now, Mr. Bhupesh Gupta, this is your chance.

SHRI BHUPESH GUPTA: I am not itching for a chance on this. Here is a formidable list of the measures given in the Schedule. Now, the hon. Minister has been particularly brief in moving the motion for consideration of the Bill. I would like to know as to why this kind of thing is done in such a comprehensive manner, once or twice a year; whether after he changes or amendments that are made we could not make corresponding changes or alterations or to repeal acts, etc. This is all I wanted to know from him because we do not understand these things. Many of

these things we do not even remember. I do not know whether the hon. Minister or the officers in his Department do remember all these things that have been stated here.

SHRI KISHEN CHAND (Andhra Pradesh): Mr. Chairman, I just wanted to point out to the hon. Minister that when such repealing laws are placed before Parliament details should be given as to why a particular law is not necessary. As pointed out by the previous speaker, a long list is given. We do not know why it became necessary; why a law is being repealed; and whether we are not passing a very similar law in this very session, because we are precluded from passing a legislation similar in spirit and objects; whether repealing is essential, etc. So, we would have liked a very clear exposition from the hon. Law Minister regarding these points. It is a list of nearly thirty or forty Acts which we are repealing. There is no question of opposing this Bill or amending it. It is only for clarification.

SHRI A. K. SEN: If the hon. Members were good enough to read the Statement of Objects and Reasons, they would have found the reason. This is really to give effect to certain facts which have already been achieved. It is really to codify repeals, obsolescence or uselessness of statutes which have already been brought about by reason of various Acts passed by the Houses of Parliament. In every country this is considered to be more or less a routine matter, to bring it in the form of one code a list of statutes with their relevant sections which have either become obsolete or repugnant to existing statutes or repealed or amended; and the Schedule gives an exhaustive list of those Acts which have undergone repeals or amendments or partial amendments or partial repeals or which should become obsolete partially or wholly. The Schedule would give a complete picture of the information that is now required by the hon. Members. It

is impossible for any one to remember. The hon. Member, Mr. Bhupesh Gupta, is perfectly correct. We cannot credit anyone with that amount of intelligence or memory, not even the Law Ministry . . .

SHRI BHUPESH GUPTA: Why even?

SHRI A. K. SEN: . . . though the Law Ministry is the repository of the laws.

MR. CHAIRMAN: The question is:

"That the Bill to repeal certain enactments and to amend certain other enactments be taken into consideration."

The motion was adopted.

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

Clauses 2 to 4 were added to the Bill.

The First Schedule

MR. CHAIRMAN: Let us now take up the First Schedule. There are four amendments, all of them by the Law Minister.

SHRI A. K. SEN: Sir, I move:

3. "That at page 4, line 9, for the figure '1953' the figure '1950' be substituted."

4. "That at page 6, line 19, for the figure '130' the figure '138' be substituted."

5. "That at page 6, line 28, for the word 'Donation' the word 'Donations' be substituted."

6. "That at page 11, line 18, for the word 'Tribunal' the word 'Tribunals' be substituted."

They are all more or less formal amendments.

MR. CHAIRMAN: The question is:

3. "That at page 4, line 9, for the figure '1953' the figure '1950' be substituted."

The motion was adopted.

MR. CHAIRMAN: The question is:

4. "That at page 6, line 19, for the figure '130' the figure '138' be substituted."

The motion was adopted.

MR. CHAIRMAN: The question is:

5. "That at page 6, line 28, for the word 'Donation' the word 'Donations' be substituted."

The motion was adopted.

MR. CHAIRMAN: The question is:

6. "That at page 11, line 18, for the word 'Tribunal' the word 'Tribunals' be substituted."

The motion was adopted.

MR. CHAIRMAN: The question is:

"That the First Schedule, as amended, stand part of the Bill."

The motion was adopted.

The First Schedule, as amended, was added to the Bill.

The Second Schedule

SHRI A. K. SEN: Sir, I move:

7. "That at page 13, line 17, for the figure '13' in column 2, the figure '12' be substituted."

8. "That at page 14, after line 47, the following be inserted, namely:—

<p>'1956—61 The Khadi and Village Industries Commission Act, 1956.</p>	<p>In clause (a) of section 2, for the word and figure 'section 9' the word and figure 'section 10' shall be substituted."</p>
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9. "That at page 15, line 5, for the figure '1954' the figure '1956' be substituted."

[Shri A. K. Sen]

These are all very formal amendments.

MR. CHAIRMAN: The question is:

7. "That at page 13, line 17, for the figure '13' in column 2, the figure '12' be substituted."

The motion was adopted.

MR. CHAIRMAN: The question is:

8. "That at page 14, after line 47, the following be inserted, namely:—

'1956—61 The Khadi and Village Industries Commission Act, 1956. In clause (a) of section 2, for the word and figure 'section 9' the word and figure 'section 10' shall be substituted."

The motion was adopted.

MR. CHAIRMAN: The question is:

9. "That at page 15, line 5, for the figure '1954' the figure '1956' be substituted."

The motion was adopted.

MR. CHAIRMAN: The question is:

"That the Second Schedule, as amended, stand part of the Bill."

The motion was adopted.

The Second Schedule, as amended, was added to the Bill.

Clause 1—Short Title

SHRI A. K. SEN: Sir, I move:

2. "That at page 1, line 4, for the figure '1956' the figure '1957' be substituted."

This is a necessary and logical consequence.

MR. CHAIRMAN: The question is:

2. "That at page 1, line 4, for the figure '1956' the figure '1957' be substituted."

The motion was adopted.

MR. CHAIRMAN: The question is:

"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 A. K. SEN: Sir, I move:

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

MR. CHAIRMAN: The question is:

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

The motion was adopted.

MR. 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 A. K. SEN: Sir, I move:

"That the Bill as amended, be passed."

MR. CHAIRMAN: Motion moved:

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

SHRI BUPESH GUPTA: Now, Sir, as I said in the beginning, we would like to have a little more elucidation of the matter. The hon. Minister has told us that after all this is a routine matter and that in every country this is done, but I think that in every country something is said about it also when information is sought from the other side of the House. I would like that in future the Government should make a brief statement about it. Here, for instance, in the First Schedule, page 18, it is said—

"The Bengal Troops Transport and Travellers' Assistance Regulation, 1806 and the Bengal Troops Transport Regulation, 1825 contain provisions relating to forced labour which are inconsistent with article 23 of the Constitution."

I have no doubt that whatever provisions in the existing statutes are repugnant to the provisions of the Constitution—the good provisions of the Constitution—should be immediately repealed. Here, the occasion should be utilised for asking the Government to explain as to why the Law Department took such a long time to discover that there were existing statutes which were inconsistent with the Constitution—we are in the eighth year of the Constitution—and which had not yet been repealed. Now, I say this because I find that from year to year the Government comes before this House and tells us that some existing Statutes, whether Central or State, are repugnant to or inconsistent with the provisions of the Constitution. We do not like a repetition of this practice every year. What I would ask the Government to do in this matter is to enquire into all the statutes that are in existence, find out which are inconsistent with the provisions of the Constitution and do away with them once and for all. That is what should be done. Here it is quite clear that a law which had been contrary to the provisions of the Constitution was in operation or has been in operation for eight years or at least for a number of years. This is a state of affairs which should not be allowed to continue. I see the difficulty because you have thousands of laws and enactments, but I thought that the Ministry of Law to which the hon. Minister, I suppose, is a youthful newcomer would apply his youthful vigour to see that the procrastinations and law's delays even in the Ministry of Law do not continue in the manner in which they have been going on. That is why, if the hon. Minister makes an effort and applies his mind to it and explains to the House, that would give us the opportunity of

making some suggestions or even drawing his attention to some of the statutes which are repealed but do not fulfil the intentions and purposes behind the repeal. I do not think that even this little matter should be treated in that routine manner. That is why in future I would ask the hon. Minister to see that not a single statute or legislation, whether State or Central, which offends against the provisions of the Constitution, provided that such provisions are good provisions, remains there, and all such laws should be repealed by one single Act, and we should not repeat a performance like this every year. This is all that I wanted to say. I credit the hon. Minister with a good memory, but sometimes even very good memories fail in some matters especially when one comes up against a formidable array of legislations which confront him in the Law Ministry, together with the bureaucratic red-tape that he has to face.

DR. SHRIMATI SEETA PARMANAND (Madhya Pradesh): I would like to make a few observations more in the nature of seeking some clarifications. Sir, this Bill has been introduced in the Rajya Sabha. We find that there are some items on page 14—The Companies Act, 1956, The Life Insurance Corporation Act, 1956—and then again on page 11, there is an item—The Income-tax and Excess Profits Tax (Validity of Notices) Ordinance, 1944. These are to be repealed. Once when I wanted to bring in an amending Bill in this House, which had nothing to do with any money part of the Income-tax Act, which sought only to increase the punishment to those found guilty, particularly Income-tax Officers who were found to be in collusion with some of the tax-evaders and also the power for seizing records, the Speaker of the other House certified it to be a Money Bill, when those amendments of the sections had nothing to do with money. I would therefore like to know whether it is now correct to introduce this Bill in this House. If these powers are given to the Rajya Sabha I would be the first

[Dr. Shrimati Seeta Parmanand]
 person to be very happy but I would like to know whether we are laying a new precedent in bringing these Bills even if they may be for repealing, that is, taking initiative with regard to repeal because if the introduction of a money bill means that the exchequer is touched in some way or other, may be for giving it more money or may be for taxing, these Bills may affect the exchequer as connected with an Act which would take away some money or may give some money. I have not got the relevant ruling before me but on the principle that the Speaker had held that any amendment to the Income-tax Act, as it was originally a Money Bill, could not be brought in the Rajya Sabha, I would just like the Law Minister to answer this point as to whether any amendment to the Life Insurance Act can be introduced in this Sabha as also the amendment to the Companies' Act and the Income-tax Act and if these could be repealed by introducing the amendments in this House, I feel that they could also be brought here and *vice versa*.

SHRI SANTOSH KUMAR BASU (West Bengal): Sir, my esteemed friend Mr. Gupta has raised a question which requires an answer. He says that this kind of periodical introduction of Repealing and Amending Bills after long intervals after they had gone through the Legislature with respective amendments is to be discontinued because Members forget the relevant amendments which have been passed and which are sought to be incorporated in these Bills, and also there are several matters in the Statutes which may have become obsolete and unconstitutional as a result of the adoption of the Constitution. I submit with regard to the first point of Mr. Gupta that the hon. Minister has pointed out that this is the time-honoured system in all countries *viz.*, to bring up these repealing and amending bills periodically and to bring the legislations up-to-date. It is not only in other countries but also in this country that the

Legislature has adopted this particular system all along of introducing repealing and amending bills for such a purpose. So I do not think there is anything wrong in continuing this system which has obtained in the legislatures in India all along.

Regarding the question of not allowing the unconstitutional statutes to continue, my friend will kindly remember that it is not always the concern of the Ministry to find out whether there is any statutory provision which is not consistent with the Constitution. Sometimes it so happens that courts of law, either the Supreme Court or the High Courts, may declare that a particular statutory provision is not consistent with the Constitution. Till then no question arises as to the unconstitutional character of a statute. It is only in these circumstances, in those particular instances, that the Ministry is called upon to take action so that the necessary provision can be made.

SHRI BHUPESH GUPTA: It may also be fact that the statutes which are unconstitutional remain unrepealed because Government does not look into them properly.

SHRI SANTOSH KUMAR BASU: It may be from one point of view, which is the critic's point of view. On the other hand, except from the point of view of the critic, it may be that these things never would ordinarily occur to the Ministry unless they were pointed out by decisions of Courts. Government have no occasion to consider, except in very flagrant and glaring instances, that a particular statute is inconsistent with the Constitution. If it is so apparent and obvious, Government has taken action and will undoubtedly take action in such cases but there are various instances where the courts point out when a particular statutory provision is challenged in the court by a party that the provision is unconstitutional or not consistent with the Constitution

and the Government will take it up at that point properly and legitimately. Otherwise they would not disturb the existing statutory provision which may not be so obviously inconsistent with the Constitution. These are the considerations which ought to be taken into account in assessing the justification of the criticisms which my friend Mr. Gupta has put forward in this connection.

SHRI B. K. P. SINHA (Bihar): Mr. Chairman, while I agree with the contention of the hon. Leader of the Communist Party that Government should not be so slow in eliminating obsolete or unconstitutional laws or provisions of particular laws from the statute book, I feel that his fear that if Government do not do so very promptly, unconstitutional laws will remain in operation, are not justified because if some law is in conflict with the fundamental rights chapter of the Constitution, the law is *ipso facto* null and void. There is death and there is pronouncement of death. Death usually precedes pronouncement of death, sometimes by a few minutes, sometimes by a few hours and in case of persons like Hitler, actual death really preceded pronouncement of death by several years. If the law is unconstitutional, it is dead—dead from the moment that the Constitution came into force.

SHRI BHUPESH GUPTA: Dead laws in our country sometimes seem to bite people.

SHRI B. K. P. SINHA: It depends upon the strength of the man who is bitten. If a man is very weak, he will allow himself to be bitten, law or no law. If a man is stronger, he will not allow himself to be bitten by any unconstitutional law.

SHRI BHUPESH GUPTA: You have to go to a lawyer . . .

(*Interruptions.*)

SHRI B. K. P. SINHA: Members of many organisations and lawyers

incite citizen to protect themselves even when there is no necessity to protect them. Therefore this fear of the hon. Member that because for eight years the law has not been declared to be repealed, therefore, it remains in operation is unjustified.

SHRI BHUPESH GUPTA: I have given an instance. . . .

(*Interruptions.*)

SHRI B. K. P. SINHA: I don't see what is the point in the hon. Member's contention. At least I know of no case in which begar has been forced from any man after the Constitution came into force, law or no law. Because when the Constitution was framed, it was discussed long in the Constituent Assembly and every provision got very good publicity, especially the provisions concerning the Fundamental Rights and those which really dealt with the rights and dignity of man . . .

SHRI BHUPESH GUPTA: But sub-inspectors don't read proceedings of the Constituent Assembly.

SHRI B. K. P. SINHA: There is a legal maxim that ignorance of law is no excuse and there are Communists always to tell the people what their rights are. Therefore even though this law has been on the Statute Book it has been a dead law. Now the Law Minister simply comes as the doctor comes after the death to pronounce that this law has been dead. That is all that I have to say.

SHRI TAJAMUL HUSAIN (Bihar): Mr. Chairman, on page 10 we find that Ordinances made by the Governor General from 1940-46 are going to be repealed. These Ordinances must have been under the Government of India Act 1935 which provided that Ordinances made by the Governor-General had force of law only for a limited period of six months. After the period of six months any Ordinance passed by the President or the Governor-General or by anybody

[Shri Tajamul Hussain.] becomes useless. So why seek to repeal a thing which by itself stands repealed? It is an *ad hoc* thing and its functions are over. It has lapsed. So the thing is now redundant. Why kill a person who is already killed? Why give poison to a person who is already dead? The doctor has declared him to be dead and now you seek to give him another dose of poison so that he may die. It is no use and I see no reason for this thing.

On the same page I find that the Repealing and Amending Act, 1953 is going to be repealed. That Repealing and Amending Act was passed by this House in 1953, only recently. If you are going to repeal that Act, does it mean that the Acts which were repealed by it are to be revived again? I do not understand this point. The same thing is to be said about the Press (Objectionable Matter) Act, 1951. That has also expired and that was for a limited period. We cannot find here any reasons stated for its repeal. These are the only points that I wanted to raise.

Then again, on page 3, The Prevention of Corruption (Amendment) Act, 1950 is mentioned. No reason has been given in this Bill as to why this Act is going to be repealed whereas reasons have been given as to why such and such other Acts are being repealed.

SHRI H. P. SAKSENA (Uttar Pradesh): Sir, the brevity of the hon. Minister of Law is my only justification for rising to speak. I do not exactly remember whether the notorious Regulation known as the Regulation III of 1818 has been repealed up till now or not. If it has not been repealed as yet, I would request the hon. Law Minister to include it in the list which he has now formulated for repealing and annulling. We all know that Regulation III of 1818 was dealt with by the British administration in the matter of punishing the most distinguished leaders of the country. Netaji Subash Chandra Bose was dealt

with under Regulation III of 1818. Similarly almost all the distinguished leaders of the country were dealt with under that Regulation. So I fervently hope that the Regulation III of 1818 has been repealed by now, because this process of repealing and annulling laws we repeat periodically.

SHRI BHUPESH GUPTA: That lives in the Preventive Detention Act.

SHRI H. P. SAKSENA: I am not obsessed by the Preventive Detention Act as my hon. friend Shri Bhupesh Gupta is. For me it is a necessity, unfortunate though it is. I said as much at the time of supporting the Preventive Detention Bill that if I were sitting on the other side of the House I would have opposed that Bill on principle and opposed detention which is simply a negation of law, a negation of justice.

SHRI BHUPESH GUPTA: But probably principles follow the side on which you sit.

SHRI H. P. SAKSENA: However, we are not on the Preventive Detention Act now and my purpose is only to draw the attention of the Law Minister to Regulation III of 1818 and to request him to annul it if it has not already been annulled.

SHRI JASPAT ROY KAPOOR (Uttar Pradesh): Mr. Deputy Chairman, the hon. Law Minister has introduced today quite a novel method by which he expects us to follow the various provisions of a measure, for he has asked us, rather than expect him to explain the necessity for introducing the various provisions of this Bill, to refer to the Explanation that is appended to this measure, explaining the necessity for introduction of the various provisions of this Bill. May be that this leads to saving of time. But then on some occasions it is necessary that we should be told a little more specifically as to why a particular provision has been introduced in a measure. Even as it is, I would like to know in the absence of

any explanatory note to the amendment (viii) which he has introduced as to what is really the implication of this amendment. Before he is pleased to explain the implications of this amendment (viii), I would also like to seek a little clarification from the Chair, though it may be a little belated one, as to whether the introduction of this amendment (viii) is really within the scope of this measure. I should not be understood to suggest that it should not have been allowed, for I am one of those who would always like to extend the scope of any measure so far as it may be possible to do so, for the purpose of introducing amendments as they strike us from time to time. So I should not be understood to be suggesting that amendment (viii) was outside the scope of this measure. But keeping in view the practice of this House and the too strict a view that they generally take with regard to the scope of a measure, I would like to know how this amendment (viii) can be fitted in.

MR. DEPUTY CHAIRMAN: The House has accepted all the clauses. These remarks are out of place. We are at the third reading stage.

SHRI JASPAT ROY KAPOOR: Yes, Sir, and so I myself said that this is a little belated. Nor is it my intention even at this belated stage to suggest that it was not in order.

MR. DEPUTY CHAIRMAN: Anyway, we cannot go back now.

SHRI JASPAT ROY KAPOOR: No, I am not going back, I want to go ahead. Having accepted it, I want to know how we have really extended or altered and amended even the existing view of this House that a too rigid and too limited view should be taken of the scope of a measure. I am now happy that we have done it this time and I only want that in this House we shall be following this precedent hereafter.

I only like to know whether I am wrong in this view of mine that on this happy occasion we have gone beyond the limited view that we have been taking on this point hitherto.

SHRI P. N. SAPRU (Uttar Pradesh): Mr. Deputy Chairman, the point raised by Dr. Seeta Parmanand, I think, deserves a little consideration. She said that so far as financial bills are concerned, the initiative rests with the other House, the Lok Sabha. Now, there are parts of this Bill which affect Bills which were declared to be of a financial character by the Speaker of the Lok Sabha who had the authority under the constitution to declare those Bills to be financial Bills. I am referring in particular to two particular Bills which have been amended. You will find, looking at the Second Schedule, the Life Insurance Corporation Act and the Estate Duty Act. Now, I take it that those are financial measures. It is true that the amendments are either of a clarificatory character or of a very minor character. The point which has got to be considered is whether those Bills being financial Bills, the proper procedure is not to have those Bills amended by the Lok Sabha. I express no definite opinion on this point. It did not strike me until Dr. Seeta Parmanand made the point and I have not got the Constitution before me but it does strike me that there is a lot to be said for Dr. Parmanand's point of view. The matter needs to be considered and I hope that the Law Minister will give us the benefit of his considered opinion on this point.

SHRI SONUSING DHANSING PATIL (Bombay): Mr. Deputy Chairman, I rise to speak on the point of order raised by Dr. Seeta Parmanand. In this comprehensive list of repeal and amendment, there are certain Acts which are patently of a money or financial character and this House has not got any authority to consider money Bills under article 110 of the Constitution of India. It definitely lays down, "For the purposes of this Chapter, a Bill shall be

[Shri Sonusing Dhansing Patil.]
deemed to be a Money Bill if it contains only provisions dealing with all or any of the following matters, namely:—

- (a) the imposition, abolition, remission, alteration, or regulation of any tax;.....”

In the repeal, the question of dropping a particular Act which has got the character of a Money Bill shall not be considered by this House and if that objection is raised, then the unfortunate position is that this will have to go to the Speaker of the Lok Sabha who has got the ultimate authority in this matter. Even though I belong to the profession of a lawyer, I am not sure whether this House can consider this Bill. I would like the hon. Minister to enlighten us on this point. If one goes through the list, one can find out which of the Acts deal with financial matters, and I for one feel that such type of Acts which have got clearly the characteristics of a Money Bill or a financial Bill will have to be dropped from the list.

SHRI AKBAR ALI KHAN (Andhra Pradesh): Mr. Deputy Chairman, the question that has to be looked into is whether this measure is a Money Bill. The idea was that Money Bills . . .

MR. DEPUTY CHAIRMAN: Also financial Bills.

SHRI AKBAR ALI KHAN: . . .also financial Bills should be initiated only in the Lok Sabha. If a Bill is not a Money Bill, then the initiation could be either in this House or in the other House. I submit, Sir, that this Bill which deals with certain clarifications or certain more or less verbal amendments can by no stretch of imagination be considered to be a Money Bill and it does in no way imply any money or financial matters. As such, I respectfully submit that to say that just because this Bill deals with certain amendment to measures relating to taxation it is a Money Bill is not a correct view and I feel that

this measure could be introduced in this House. That is my humble view.

SHRI A. K. SEN: Mr. Deputy Chairman, let me take up the Constitutional point which has been raised by Dr. Seeta Parmanand and supported by a few hon. Members. Sir, if a reference is made to article 110 of the Constitution, the very language there will negate the doubts expressed in the speeches of the hon. Members supporting that point of view. May I read article 110 once again? That will clear up the whole question.

“For the purposes of this Chapter, a Bill shall be deemed to be a Money Bill if it contains only provisions dealing with all or any of the following matters, namely....”

The word “only” is very significant. It is not enough that some of the provisions contains matters specified in article 110; these must form the only subject matter of the Bill. Apart from the question whether it contains only some of those matters or not, it contains no matter whatsoever specified in article 110. It contains a sort of declaration, if I may say so, Parliamentary declaration, of the obsolescence or ineffectiveness of certain provisions, may be, in certain financial or Money Bills coupled with such declarations in relation to other Bills which are not Money Bills at all. That, in my submission, completely answers the point of order raised.

The next point raised by Mr. Bhupesh Gupta is worthy of consideration. I am deeply obliged to him for the few nice words he has addressed to me and I hope that the expectations which are implicit in his complimentary speech may be fulfilled in the future. But, there are various difficulties in the way of fulfilment of the objects he has held before us. He will find, Sir, that under article 13 of the Constitution, any law, whether existing or future, which is repugnant to any of the provisions of Part III of the Constitution, namely the

Chapter on Fundamental Rights, is declared to be void. Now, it is rather precarious for any Government to undertake the task of examining each statute and giving its opinion in the form of a Bill as to what provisions in the various statutes are repugnant to the Constitution and, therefore, void. From time to time, various doubtful provisions come up before courts of law. A particular High Court may declare a particular provision as valid, but the Supreme Court may declare it invalid and *vice versa*, that is, the High Court may declare it invalid while the Supreme Court may declare it as perfectly valid. Now, Sir, until the matter is finally declared by the Supreme Court, it is difficult to place any provision on the statute book and say, off-hand, or in anticipation, that a particular provision is bad. We cannot say that a provision offends against the Constitution unless the matter is so clear that there can be no possible doubt on the question, as was pointed out by my hon. friend, Mr. Basu. Apart from those few instances where the matter is beyond the pale of any doubt, it is difficult to put on the statute book measures saying that certain provisions are repugnant unless they have been declared so by the highest court of the land. Therefore, Sir, instead of making a laughing stock of ourselves by putting any provision as repugnant to the Constitution according to our notions which may be declared to be absolutely stupid or unwise later on by a court of law, we would rather take time and await the decisions of the highest tribunals of the land before introducing measures declaring such provisions as repugnant to the Constitution. I agree that if there are instances in which there can be no possible doubt, where there cannot be any reasonable doubt in the matter, it will be our duty to bring them up and declare them as

repugnant to the Constitution

1 P.M. straightway. Now, Sir, about the point taken by the hon. Member over there about Regulation III of 1818 . . .

MR. DEPUTY CHAIRMAN: Will you take more time?

SHRI A. K. SEN: I shall finish just now.

SHRI BHUPESH GUPTA: You may take a little more time.

SHRI A. K. SEN: I shall not take much time. Now, Sir, about the point made about Regulation III of 1818 I appreciate the sentiment expressed by him. After all, this particular Regulation has been used against almost all the great leaders for whom we have respect and whose memories we cherish. I am not able off hand to tell the House as to whether this Regulation has been declared to be bad under the Constitution formally.

MR. DEPUTY CHAIRMAN: It has been repealed.

SHRI A. K. SEN: I was just coming to that. I supposed it must have been as otherwise there would have been no necessity as Mr. Gupta was good enough to point out, for the Preventive Detention Act. As you know, the Preventive Detention Act had to follow the limitations imposed by the Constitution under article 22.

SHRI BHUPESH GUPTA: That is an inheritance from the British which this Government has accepted.

SHRI A. K. SEN: Or from some other countries neighbouring England, where preventive detention is not unknown or not freely used.

SHRI AKBAR ALI KHAN: That country Mr. Bhupesh Gupta will not name.

SHRI A. K. SEN: Well, let us not mention countries with whom we are in the best of relations and who are our friends.

Now, Sir, I think the only point that remains is the question asked about amendment No. 8. It is only an

[Shri A. K. Sen.]

insertion in a particular statute a portion of which is mentioned as ineffective. You will find we have introduced it after line 47 as a new item altogether, just an addition, namely:—

“1956—61 The Khadi and Village Industries Commission Act, 1946. In clause (a) of section 2, for the word and figure ‘section 9’ the word and figure ‘section 10’ shall be substituted.”

It is a purely grammatical correction in that statute, a purely clerical correction of that statute. At the time when the Bill was originally drafted, this clerical omission in that particular statute was not detected, and therefore it has been introduced in the form of an amendment. There is nothing else in that.

This is all, I think, I should say in reply and I formally submit that the Bill, as amended, be passed.

MR. DEPUTY CHAIRMAN: The question is:

“That the Bill, as amended, be passed.”

The motion was adopted.

MR. DEPUTY CHAIRMAN: The House stands adjourned till 2.30 P.M.

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

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

THE MINIMUM WAGES (AMENDMENT) BILL, 1956

THE DEPUTY MINISTER OF LABOUR (SHRI ABID ALI): Sir, I beg to move:

“That the Bill further to amend the Minimum Wages Act, 1948, be taken into consideration.”

Mr. Deputy Chairman, as hon. Members are aware, the minimum Wages Act, 1948, provides for the fixation of minimum rates of wages for certain employments mentioned in the Schedule of the Act. The Act was last amended in 1954 with a view to enabling appropriate Governments, Central as well as State, to fix minimum wages for scheduled employments before the 31st December 1954. Part I of the Schedule contains a fairly long list of employments. Wage fixation in the case of these employments has practically been completed. The number of workers in the Scheduled employments mentioned in Part I is 17 lakhs.

Part II of the Schedule covers employment in agriculture and the appropriate Government for fixing wages in these cases is State Government. As regards fixation of minimum wages for employment in agriculture (Part II of the Schedule) the intention as embodied in the recommendation of the Planning Commission and subsequently endorsed by the Indian Labour Conference (January 1954) and the Minimum Wages Central Advisory Board (April 1954), was that wage fixation should be progressed on the basis of a phased programme, all areas in the State being ultimately covered within the period of the first Five Year Plan, i.e., by the 31st March 1956. Though a few State Governments have fixed minimum wages in agriculture for the whole State, a majority have only made a beginning in this regard. The number of agriculture workers is about 3.5 crores and wage fixation in their case presents certain special difficulties and problems, namely, the paucity of data, illiteracy among both employers and the employees, the poor capacity of the employers to pay, the size of the holdings, large enforcement staff that will be needed etc.,