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PARLIAMENTARY DEBATES

(Part I—Questions and Answers)

OFFICIAL REPORT

VOLUME I, 1952

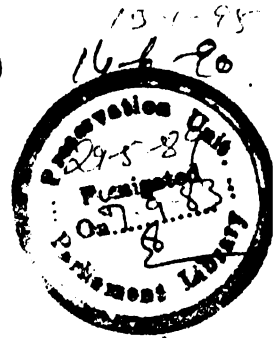
(6th February to 5th March, 1952)

Fifth Session

of

PARLIAMENT OF INDIA

1952



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THE
PARLIAMENTARY DEBATES
(Part I—Questions and Answers)
OFFICIAL REPORT

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PARLIAMENT OF INDIA

Thursday, 28th February, 1952

*The House met at Half Past Nine
of the Clock.*

[MR. SPEAKER in the Chair]

ORAL ANSWERS TO QUESTIONS

LAND REVENUE SETTLEMENT ACT

*261. **Prof. K. T. Shah:** Will the Minister of States be pleased to state:

(a) whether the Land Revenue Settlement Act of Bombay has been applied to the State of Kutch, and if so, from what date it has been put into effect;

(b) whether the necessary preliminary processes of Survey and Settlement have been commenced and carried out;

(c) if so, in what parts of the State of Kutch, covering what area, and yielding, as estimated, how much land revenue;

(d) how the amount of yield, as estimated up-to-date, compares with the corresponding yield under the previous regime in that State;

(e) whether all the dues of the State, or the local landowners, under the previous Bhagbatali system have been abolished or whether any are still in operation; and

(f) if any be in operation still, what is the yield from such incidental dues to the State, and to other landowners under the new regime, from the year 1949-50 to the end of 1951?

The Minister of States, Transport and Railways (Shri Gopaldaswami): (a) Yes, the Bombay Land Revenue Code was extended to Kutch with effect from the 10th May 1950.

(b) Survey and Settlement operations have been sanctioned for the 141 *khalsa* villages and are in progress.

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(c) and (d). Survey and settlement operations have been taken up in Nakhatrana and Mundra Taluqs of Kutch, the areas of which are 4,53,120 and 2,53,440 acres respectively. Settlement operations are in progress in surveyed villages and surveys are proceeding in unsurveyed villages; the rates proposed by the Settlement Officer are under the consideration of the Chief Commissioner. I regret I am unable at this stage to give any estimates of land revenue as the Settlements are still incomplete.

(e) and (f). Bhagbatali (crop sharing) system will be abolished as soon as settlements come into force. In the meanwhile, it has been decided to convert the crop share into *ad hoc* cash assessment.

Prof. K. T. Shah: May I ask what was the exact title of the Act under which this system was extended to Kutch?

Shri Gopaldaswami: There is an Act for it and I cannot give the exact title of it under which we were enabled to extend Acts on similar subjects in other Part A States to Part C States.

Prof. K. T. Shah: Is it by this Parliament that it was extended?

Shri Gopaldaswami: Yes.

Prof. K. T. Shah: As regards the rates, may I inquire whether they would be on the same lines as that in Bombay?

Mr. Speaker: He refers to the rates of assessment.

Shri Gopaldaswami: Yes. The rates are determined under the Act, I take it. The Act is extended and when it is extended under the provisions of the Act, these rates will be determined.

Prof. K. T. Shah: I do not quite understand the meaning of the statement that the rates are under the consideration of the Chief Commissioner.

Shri Gopaldaswami: The rates have been proposed by the Settlement

Officer and they are being examined and are under the consideration of the Chief Commissioner before final orders issue.

Prof. K. T. Shah: May I inquire whether these settlement operations extend both to what was originally *Khalsa* or the domain of the State proper under the then ruler or also to the *jagirdars* who hold land from time immemorial?

Shri Gopaldaswami: At present certainly. As I have said in answer to part (b) of the question survey of settlement operations have been sanctioned for only the *Khalsa* villages and they are in progress.

Prof. K. T. Shah: But they are intended to be extended to the other lands also, I presume?

Shri Gopaldaswami: They will be in due course.

Prof. K. T. Shah: If so, the same policy will be followed?

Shri Gopaldaswami: I think so.

Prof. K. T. Shah: Then, may I ask whether any compensation is given to those *jagirdars* whose lands have been thus taken over?

Shri Gopaldaswami: The question of compensation has not yet been taken up because these operations have not yet been extended to those areas.

Prof. K. T. Shah: May I take it that the question of compensation is not finally disposed of and denied?

Shri Gopaldaswami: I do not think that any final orders have issued.

Prof. K. T. Shah: May I know whether the areas that he mentioned in respect of the taluqs in which the settlement operations are going on include also cultural waste or only cultivated lands?

Shri Gopaldaswami: Survey and settlement must relate to the whole area. If a land is uncultivated the rates will be fixed when it comes to be cultivated and the rates will be recovered.

KUTCH STATE EMPLOYEES

*262. **Shri Dholakia:** (a) Will the Minister of States be pleased to state how many Kutch State employees were pensioned off within two years after the transfer of power?

(b) What rules were made applicable to them when those employees were relieved on pensions and what criterion was adopted for pensioning them off?

(c) What is the total number of employees receiving their pensions upto date?

(d) What is the number of employees who have not yet received any pensions for the last three years?

(e) What is the number of those who died without receiving pension from among those who were pensioned off?

(f) Did their families receive any pension money due to pensioners?

(g) What is the number of employees drawing less than Rs. 10/- and less than Rs. 15/- as pension?

The Minister of States, Transport and Railways (Shri Gopaldaswami): (a) 759 during the period from June 1948 to March 1950 including those who got other than pensionary benefits.

(b) The Central Government Rules have been applied though, till these rules could be applied, some cases were dealt with under the old rules of the Kutch State on a provisional basis. Persons who had attained the age of 55 were retired in accordance with the age of superannuation fixed under the Central Rules. Some others were found surplus to the requirements of the State as several departments maintained by His Highness the Maharao were no longer required. A few others were found unsuitable in the new conditions. All these persons were given retrenchment benefits.

(c) 332 out of those who retired after Kutch became a Centrally Administered State.

(d) 15.

(e) 6.

(f) The amounts due to the 6 persons mentioned in (e) will be paid to their heirs. Their claims are under investigation.

(g) 142 and 79.

POSTS RESERVED FOR ANGLO-INDIANS (POST AND TELEGRAPH DEPARTMENT)

*264. **Shri Massey:** Will the Minister of Communications be pleased to state:

(a) the number of posts reserved for Anglo-Indians in each year from 1946 up to date in the Post and Telegraph Department;

(b) the number of posts filled by Anglo-Indians each year;

(c) the number of Anglo-Indians holding class I posts each year from 1946 up to date;

(d) the number of Anglo-Indians holding class II posts each year from 1946 uptodate;

(e) the total number of Anglo-Indians in service each year from 1946 up to date;

(f) the highest post held by an Anglo-Indian in each year from 1946 up to date;

(g) the number of Anglo-Indians who have applied for appointment; and

(h) the number rejected?

The Deputy Minister of Communications (Shri Raj Bahadur): (a) to (e), (g) and (h). It is considered that the expenses and labour involved in collecting the information asked for by the hon. Member will not be commensurate with its usefulness.

(f) 1946: Postmaster-General

1947: -do-

1948: -do-

1949: Director, Postal Services

1950: -do-

1951: Director, Telegraph Traffic

1952: Chief Superintendent,
Telegraphs.

TELEPHONE SYSTEM IN MAYURBHANJ

*265. Shri M. Naik: (a) Will the Minister of Communications be pleased to state whether the proposal to take over the Telephone System in the District of Mayurbhanj in Orissa by the Centre has been implemented?

(b) If the answer to part (a) above be in the affirmative, since when has it been taken over and if not, why not?

(c) If not, when do Government propose to give effect to the proposal?

The Deputy Minister of Communications (Shri Raj Bahadur): (a) No.

(b) and (c). The Government of Orissa have been requested to hand over the systems to the P. and T. Department and informed of the terms and conditions under which the telephone facilities required by them would continue to be made available. They have replied that the question is under consideration.

Shri M. Naik: May I know whether it is a fact that some time during last year some officer from the Central Government was deputed to take over the system and he was refused the charge to be made over to him?

Shri Raj Bahadur: Consequent upon the Federal Financial Integration it is

a fact that we expected that the Mayurbhanj Telephone system would be given over by the Government of Orissa to the Government of India, but the Government of Orissa wanted certain facilities which they were enjoying under the old system to continue and at present negotiations are going on for the handing over of this system to us, subject to certain conditions and privileges to the Orissa Government.

Shri M. Naik: Is there any compensation contemplated to be paid to the Orissa Government?

Shri Raj Bahadur: This has not been the rule so far.

Shri Jnani Ram: What are the facilities which the Orissa Government demand?

Shri Raj Bahadur: They do not want any better type of service than exists at present. They want that they should be allowed special rates and the negotiations are going on and we are waiting for their final reply.

NAVALAKHI-KANDLA FERRY SERVICE

*266. Shri Dholakia: Will the Minister of States be pleased to state:

(a) whether the Ferry service run between Navalakhi and Kandla is the monopoly of a company;

(b) whether Government are aware of the difficulties the passengers have to undergo thereby;

(c) whether it is a fact that Government are considering to end the monopoly; and

(d) if so, what other arrangement is contemplated and when it will come into effect?

The Minister of States, Transport and Railways (Shri Gopaldaswami): (a) and (c). By an agreement made in October 1947, with the former Kutch State, the Kutch Transport Company was given the sole right to maintain and operate a ferry service between Kandla and Navalakhi for a period of 20 years. In view, however, of the provisions of Article 19(1) (g) of the Constitution, such monopolies have become impossible of performance and stand cancelled. No other private Company has so far come forward to operate a parallel service.

(b) Yes.

(d) The question whether the ferry service between Kandla and Navalakhi should continue to be operated by the Kutch Transport Company or taken over by Government is under consideration.

EASTERN SHIPPING CORPORATION

*267. **Dr. M. M. Das:** Will the Minister of Transport be pleased to state:

(a) the total number of ships with their respective purchase costs, owned at present by the Eastern Shipping Corporation;

(b) the total amount invested in this Corporation by the Central Government up-to-date and the percentage of shares held by them; and

(c) whether any audit of the accounts of the Company has been made and any balance sheet prepared?

The Minister of State for Transport and Railways (Shri Santhanam):

(a) The Eastern Shipping Corporation at present owns two cargo vessels, the s.s. "West Bengal" and s.s. "Bombay", the purchase prices of which were as follows:

s.s. "West Bengal" ...Rs. 21,67,382

s.s. "Bombay" ...Rs. 22,45,232

(b) The Government of India have so far invested in the Corporation, a sum of Rs. 148 lakhs, which represents 74 per cent. of the subscribed capital.

(c) Yes. The accounts of the year 1950-51, which was the first year of the Corporation's existence have been audited and the balance-sheet as at 31st March 1951 prepared.

Dr. M. M. Das: May I know whether any other shipping company has been appointed as managing agent of this Corporation?

Shri Santhanam: The Scindia Co., which is a 26 per cent. shareholder is the managing agent.

Dr. M. M. Das: May I know whether the ships owned by this Corporation have not been put in operation and a heavy amount is given to this managing agency for the maintenance of these ships?

Shri Santhanam: They are actually working all the time.

Shri M. Naik: May I know how the Central Government is represented in the management of this Shipping Corporation?

Shri Santhanam: It appoints the Chairman and some of the Directors.

Shri M. Naik: The hon. Minister stated that 74 per cent. of the capital is owned by the Central Government. To what extent is the Central Government represented in the management?

Shri Santhanam: I have not got the details of the directorate. The majority

of the directors including the Chairman are nominated by the Government of India and there is a special Director who has got powers to reserve certain matters for the decision of the Government of India.

Shri M. Naik: My question was whether the percentage of representation was in accordance with the percentage of capital invested by the Government.

Mr. Speaker: I think it should be presumed that, the Government have a controlling voice in that. Perhaps he refers to the management by 20 per cent. of the shareholders. That is his point probably. Then, it is a matter of expert skill.

Shri S. C. Samanta: May I know whether passenger service will be taken up by the shipping company?

Shri Santhanam: Yes. Even now a passenger service to Singapore is being run by this Corporation.

COLD STORAGE PLANT IN BOMBAY

*268. **Dr. M. M. Das:** Will the Minister of Food and Agriculture be pleased to state the total expenditure incurred up-to-date for the installation of the cold storage plant at Bombay?

The Deputy Minister for Food and Agriculture (Shri Thirumala Rao): Approximately Rs. 12,50,000.

Dr. M. M. Das: What was the purpose for which this plant was installed?

Shri Thirumala Rao: The plant as designed is meant exclusively for the storage of fish. Of the present total capacity of 300 tons, 250 is for frozen fish at a temperature of 0 degree fahrenheit, and 50 ton capacity for chilled fish at 32 degrees fahrenheit. The ice production capacity is 20 tons daily.

Dr. M. M. Das: How is the plant being used now?

Shri Thirumala Rao: The plant started working on 7th November 1951. It has begun to earn some income to Government.

Dr. M. M. Das: Under the supervision of the Government of India?

Shri Thirumala Rao: Yes.

AIRLINE COMPANIES (SUBSIDY)

*269. **Dr. M. M. Das:** Will the Minister of Communications be pleased to state:

(a) the total number of airline companies that has received subsidies

from Government during each of last three years;

(b) the amounts paid as subsidies to these companies in each of those three years; and

(c) whether any terms and conditions are attached to these grants of subsidies?

The Deputy Minister of Communications (Shri Raj Bahadur): (a) Twelve during 1949-50, 17 during 1950-51 and 13 during 1951-52.

(b) Rs. 49.30 lakhs during 1949-50 and Rs. 72.75 lakhs during 1950-51. For the year 1951-52, subsidies amounting to Rs. 18.29 lakhs have already been paid and further subsidies estimated at Rs. 23 lakhs are still payable.

(c) For the period up to the 30th September 1951, when the amount of subsidy payable was calculated in proportion to the quantity of petrol used by the operators, no conditions were attached to its grant. The terms and conditions attaching to the grant of subsidy under the scheme introduced from 1st October, 1951, were given in a Press Note issued by the Government on the 19th December, 1951 of which a copy is placed on the Table. [See Appendix I, annexure No. 6].

Dr. M. M. Das: May I know what are the reasons for which this subsidy is given?

Shri Raj Bahadur: To encourage and develop the Air transport industry.

Dr. M. M. Das: May I know whether the subsidy is given in cash or in some other form?

Shri Raj Bahadur: Usually in cash.

Dr. M. M. Das: How long does the Government want to continue this subsidy?

Shri Raj Bahadur: Subsidies, generally speaking are given in accordance with the recommendations of the Air Transport Enquiry Committee. It is expected that in due course of time these companies will be able to stand on their own legs.

Dr. M. M. Das: How far has the grant of these subsidies been able to stabilise the economic condition of these companies?

Shri Raj Bahadur: It is too premature to judge that Government is trying its level best to encourage the companies and to help them to reduce

their expenditure to what is known as the standard cost and is trying to develop their economy in a way in which they may sooner or later stand on their own legs.

Shri Jaipal Singh: What is the reason for the Government continuing financial assistance to Air Line companies which have been in a position to declare large profits?

Shri Raj Bahadur: I would require to know the names of the companies which are declaring "large profits".

Shri Jaipal Singh: Airways India.

Shri Raj Bahadur: So far as I remember that gave only Rs. 9,000 and that too only in one year.

Shri T. N. Singh: Out of the thirteen companies receiving aid in the form of petrol and other things, how many are companies which hold concessions from Government for running airmail and night mail services?

Shri Raj Bahadur: I cannot give off-hand; I will require notice.

Shri M. Naik: How many of the Air services now running in India are self-sufficient?

Shri Raj Bahadur: I cannot say self-sufficient. It is only one company which in one year has shown some profit.

श्री राधेलाल व्यास : क्या मैं यह जान सकता हूँ कि जो ऐयर सर्विसेज को जो सबसिडी दी गई है, वह सब सेन्ट्रल गवर्नमेंट द्वारा दी गई है, या अगर स्टेट्स गवर्नमेंट्स ने भी दी है तो बतलाया जाय कि उन्होंने कितनी रकम सबसिडी में दी है ?

[**Shri Radhelal Vyas:** May I know whether the subsidy given to the Air Services has been entirely from the Central Government or have the State Governments also made contributions thereto and, if so, what are the amounts contributed by them?]

Shri Raj Bahadur: I cannot give a categorical reply to that question. But, so far as I know, subsidy has been given only by the Central Government.

Shri T. N. Singh: Will the hon Minister kindly let us know, besides the subsidies, the total amount of other aids that these companies may be getting?

Shri Raj Bahadur: If by 'total amount of other aids' the hon. Member

means maintenance of aerodromes and other navigational aids and equipment, Air control tower and other things, it will be difficult to calculate. It would come to a substantial amount.

Dr. M. M. Das: Of the companies that are receiving Government subsidy at present, are they all Indian companies or are there some others which are not receiving any aid?

Shri Raj Bahadur: They are all registered in India; they are all Indian Air lines.

Shri Jaipal Singh: May I know whether it has been proposed to increase the petrol rebate to enable the Airlines to be more stable than they are now?

Shri Raj Bahadur: That is a suggestion for action which, I think, can only be taken into consideration at an appropriate time on occasion.

RATES OF FOOD-STUFFS IN RESTAURANT CARS

*270. **Maulvi Wajed Ali:** Will the Minister of Railways be pleased to state:

(a) what were the rates of catering for food, in E.I.R., G.I.P., B.N.R. Railway Restaurant Cars and Refreshment Rooms before 1st December, 1951; and

(b) whether the said rates have been revised and increased since 1st December, 1951?

The Minister of State for Transport and Railways (Shri Santhanam): (a) A statement is placed on the Table of the House giving the required information. [See Appendix II, annexure No. 7.]

(b) No increases have been made on the E.I. and the B.N. Railways since 1st December, 1951. On the former Railway, however, an increase was effected on 1st November, 1951. On the G.I.P. (now Central) Railway an increase was made with effect from 15th December, 1951.

Maulvi Wajed Ali: May I know what are the reasons for this increase effected since 1st November 1951 and how do these new rates compare with rates prevailing in restaurants in New Delhi and other places?

Shri Santhanam: The rates in the dining cars were much lower than those in hotels and other similar places outside and these dining cars were working on deficits. Therefore no contractors could be got for them. A special committee had to be set up to

go into the matter and as a result of the recommendations of that committee we have increased the rates in certain places.

Shri S. C. Samanta: May I know whether subsequent to this increase in the rates the quality of the stuff of food provided in these cars has improved?

Shri Santhanam: I presume so.

DISMANTLED RAILWAY LINES

*271. **Shri M. Naik:** (a) Will the Minister of Railways be pleased to refer to the reply given to my supplementary question on question No. 59 asked on the 12th February, 1952 and state how many railway lines and in which systems had been dismantled during the last war and how many of them have so far been restored?

(b) How many new constructions of railway lines have been under active consideration during the years of the post-war period and how many have so far been taken up for construction?

(c) Will Government be pleased to indicate the proposed constructions in accordance with their priority?

The Minister of State for Transport and Railways (Shri Santhanam): (a) 26 Railway lines, in the territory now in India, were dismantled during the last war. Three of them were on Assam Railway, 2 on B. N. Railway, 10 on E. I. Railway, 2 on E. P. Railway, 2 on Central Railway, 5 on Southern Railway and 2 on Western Railway. Two lines have so far been restored, one on the Central and the other on the E. I. Railway.

(b) 55 lines have been under active consideration, i.e. for which surveys have been carried out, during the post-war period. Out of these, 3 lines have been constructed and 4 are under construction.

(c) The question of according relative priority to the several proposals for the construction of additional new lines will be considered shortly by the Central Board of Transport.

Shri M. Naik: May I know whether the proposal to link Talcher to Rourkela on the B. N. Railway has now been finalised?

Shri Santhanam: That is one of the lines which have been surveyed and which are on our list; but I cannot say when and whether it will be constructed shortly or not.

Shri M. Naik: Has any priority been fixed in respect of this line?

Shri Santhanam: Some priorities were fixed up in 1948; but they are

going to be revised as I have stated, by the Central Board of Transport in the light of the existing conditions and finance.

Shri M. Nalk: The Minister stated that out of the 26 dismantled lines, only two lines have so far been restored. May I know how long it will take them to have them all restored?

Shri Santhanam: Eight lines are being taken up for restoration in 1951-52. Three more will be taken up in 1952-53 and one in 1953-54 this is the programme till 1953-54. And others will be taken up if considered desirable after the restoration of these lines is completed.

Shri Karunakara Menon: May I know which are the lines awaiting restoration and which will be taken up for restoration in 1952-53?

Shri Santhanam: As I said for 1951-52 eight lines have been taken up. They may not be completed by March 1952 and they may therefore have to be completed in 1953. The Shoranur-Nilambur line in which the hon. Member is interested has been taken up in 1951-52 and will be completed in 1952-53.

Babu Ramnarayan Singh: There are three or four lines such as the Patna-Ranchi and Hazaribagh-Deogar lines from North Bihar up to Nagpur which were proposed. What is the stage in which these proposals or constructions now are?

Mr. Speaker: Were those dismantled lines?

Babu Ramnarayan Singh: No.

Mr. Speaker: The question, I believe, is about dismantled lines and not one relating to the general programme. It is, I believe restricted to the dismantled lines.

Babu Ramnarayan Singh: The question relates to newly proposed lines.

Mr. Speaker: I think it is outside the scope of the present question.

Maulvi Wajed Ali: Among the dismantled lines what line in Assam is it proposed to restore within the next three years' period?

Mr. Speaker: Is it any use going into these individual lines? He has given the House the programme and hon. Members can refer to it.

Shri P. Kodanda Ramiah: Is it proposed to restore the Kakanada-Kotipalli line in the North-East M.S.M. line which was dismantled during the last war?

Shri Santhanam: The restoration of that line depends upon the construction of a diversion through Kakanada. This matter has not yet been settled and so it is kept pending a decision on this matter.

FERTILIZER DEAL

*272. **Shri Kamath:** Will the Minister of Food and Agriculture be pleased to state:

(a) whether Mr. Rajadhyaksha, who held the judicial inquiry into the Fertilizer Deal, has submitted his report;

(b) if so, what are his findings and conclusions; and

(c) whether a copy of the report will be laid on the Table of the House?

The Deputy Minister for Food and Agriculture (Shri Thirumala Rao):

(a) Yes.

(b) and (c). There is a civil case going on at present and I regret therefore that it is not possible for me to make the Report or its findings public at present.

Shri Kamath: So far as the agreement or contract entered into by our High Commissioner in U.K. with the firm is concerned, did it or did it not contain the usual penalty clause and if not, was that the reason why Government could not proceed against the firm for non-fulfilment of the contract?

Shri Thirumala Rao: I said the contents of the Report cannot be made public and my hon. friend wants to ferret out some information by supplementary questions.

Shri Kamath: I am sorry the hon. Minister should say I am trying to ferret out information. I am not asking for information about the Report, but something which is a matter of fact.

Mr. Speaker: The chief point seems to be that the matter is *sub-judice*.

Shri Kamath: Yes, the matter of the enquiry may be, but the agreement was signed by the Government a long time ago.

Mr. Speaker: But he says some legal proceedings are going on.

Shri Kamath: But my question is whether the agreement entered into by our High Commissioner with the British firm did not have the usual penalty clause and so the Government could not proceed against the firm for nonfulfilment of the contract.

Mr. Speaker: Will it not be part of the judicial proceedings proposed?

Shri Kamath: Not whether the contract did or did not contain the penalty clause.

Shri Thirumala Rao: All these matters are dealt with in the Report and the matter is brought before a court and it is *sub-judice*.

Mr. Speaker: The hon. Member does not want a judicial finding. What he wants is a question of fact, whether the contract produced did or did not contain a penalty clause?

Shri Thirumala Rao: I would require notice, for I have to go through the whole Report.

Shri Kamath: May I know when this Report was submitted to Government?

Shri Thirumala Rao: Sometime in January of this year.

Shri Kamath: Is the fact that a case is pending now the only reason for not publishing the Report or are there other reasons as well?

Shri Thirumala Rao: So many matters are dealt with in the Report which form the subject-matter of the suit.

Shri Kamath: But is that the only reason or are there other reasons?

Shri Thirumala Rao: We may get into action for contempt of court if we make anything public.

Mr. Speaker: That seems to be the principal reason.

W. H. O. (VEHICLES)

*273. **Shri Jnani Ram:** Will the Minister of Health be pleased to state:

(a) whether the Government of India have received a number of vehicles for use in B.C.G. vaccination from the U.N.I.C.E.F.;

(b) if so, the number and cost of the same; and

(c) the places where they will be used?

The Minister of Health and Communications (Rajkumari Amrit Kaur): (a) and (b). In connection with the B.C.G. vaccination campaign in India, the "International Tuberculosis Campaign", consisting of UNICEF and certain Scandinavian Voluntary Organizations, which assisted in the campaign prior to the 1st July, 1951, supplied 41 vehicles. In addition to these, UNICEF have now obtained 38 vehicles

for this programme and it is anticipated that a total of 179 vehicles will be made available to the Government of India in course of time. The average cost of a vehicle is \$2,300.

(c) The general principle governing the distribution of the vehicles is that 3 vehicles will be supplied to a group of two teams, each team consisting of 6 technicians and others, employed in B.C.G. vaccination in the various States. 150 vehicles will thus be distributed to 100 technician teams expected to be functioning in the various States by the end of 1953. 10 vehicles will be in the use of W.H.O./UNICEF supervisory staff in India and the remaining 19 vehicles will be required to replace the unserviceable ones. A statement showing the distribution of the 79 vehicles already received is placed on the Table of the House. [See Appendix II, annexure No. 8.]

Shri Jnani Ram: May I know if these vehicles will be exclusively used as mobile units for working in the rural areas?

Rajkumari Amrit Kaur: Well, a great deal of the work will, of course, be in rural areas but that does not ban them from being utilised in urban areas also.

SUGAR-CANE PRODUCTION

*274. **Shri B. K. Das:** Will the Minister of Food and Agriculture be pleased to state:

(a) the total diversion of land from food crops to sugar-cane in the year 1951-52;

(b) the total additional acreage brought under sugar-cane cultivation during the year 1951-52; and

(c) the total additional production of sugar-cane during the year 1951-52?

The Deputy Minister for Food and Agriculture (Shri Thirumala Rao): (a) There was no planned diversion. On the basis of latest information, however, the total area under sugar-cane has gone up by 400,000 acres.

It is not yet possible to say how much of the actual increase in area under sugarcane is from food crops and how much from cash crops or fallows or from double cropping and inter-cropping.

(b) Final estimates of acreage and production of sugarcane for 1951-52 are not yet available.

(c) According to latest available estimates the total area under sugar-cane has increased by 400,000 acres and production by 174,000 tons (in terms of raw sugar), meaning gur etc.

Shri B. K. Das: Has there been any plan for intensive cultivation of sugarcane last year?

Shri Thirumala Rao: Yes. It has been the purpose of the Indian Central Sugarcane Committee and the various State Governments to increase the total output per acre of sugarcane so that diversion to sugarcane from food-crops will be minimised.

Shri B. K. Das: Was there any special expenditure incurred for that purpose by the Central Government?

Shri Thirumala Rao: The Central Government has got a number of schemes the cost of which is shared on a basis of 50-50 with the States.

Shri Sarangdhar Das: Has there been any appreciable increase in tonnage of sugarcane produced per acre during the last three or four years?

Shri Thirumala Rao: Yes. In certain parts of the country there has been an appreciable increase. For instance, in the Deccan area and the Madras area the average has gone up appreciably.

Shri Sarangdhar Das: How about North India? That is, Bihar and Uttar Pradesh?

Shri Thirumala Rao: Bihar and Uttar Pradesh are making the best efforts but they have not registered any fair amount of increase in the output per acre.

Shri M. Nalk: May I ask whether Government is contemplating or has taken any steps whatsoever to increase the sucrose content of sugarcane?

Shri Thirumala Rao: That is a part of the scheme which aims to increase the sugarcane output and also to increase the sucrose content.

Shri M. Nalk: Has it been popularised?

Shri Thirumala Rao: All these results of researches are being utilised by the State Governments in their farms and among the cultivators.

Shri T. N. Singh: Are Government aware of the fact that due to the increase in prices of *gur* and sugar there is a tendency towards an appreciable decrease in sugarcane cultivation in the Uttar Pradesh area and that it is likely to result in a sugar shortage later on?

Shri Thirumala Rao: On account of the abnormal price prevailing for *gur* last year a large number of cultivators have taken to sugarcane growing so that it has produced a glut just now.

RATIONING

*275. **Shri Iyyunni:** Will the Minister of Food and Agriculture be pleased to state:

(a) the quantity of ration given in rice in the States of Travancore-Cochin, Madras, Bombay, Bihar and Uttar Pradesh;

(b) the quantity of ration given in wheat in the above States; and

(c) the quantity of ration given in other food grains in the above States in the year 1951-52?

The Deputy Minister for Food and Agriculture (Shri Thirumala Rao): (a) to (c). A statement giving the information is placed on the Table of the House. [See Appendix II, annexure No. 9.]

Shri Iyyunni: May I know what is the reason for having only a nine-ounce basic scale for Travancore-Cochin whereas all the other States have got 12 ounce scales?

Shri Thirumala Rao: The other States are prepared to take a mixed, composite ration like rice, wheat and millo but Travancore-Cochin insists on the whole ration being rice which is not within the practical means of the Central Government to supply.

Shri Iyyunni: May I know whether the maximum rice content of the ration is fixed at 5 or 6 ounces here in the statement?

Shri Thirumala Rao: Yes, Sir. In proportion to the availability of rice the ration content is fixed.

Shri Iyyunni: It was stated by the hon. Minister that the maximum rice content in the ration is 9 ounces. Will that maximum be given to the Travancore-Cochin State?

Shri Thirumala Rao: No. We are not in a position to give the full rice content of 9 ounces to the Travancore-Cochin State.

Shri Iyyunni: May I know whether in the state of Madras as much as 12 ounces have been given as basic scale?

Shri Thirumala Rao: It is the basic scale but it does not mean that 12 ounces of rice are being given.

Shri Iyyunni: May I know whether six ounces of rice content is given to Madras?

Shri Thirumala Rao: Yes.

Shri Iyyunni: What exactly is the reason why in Travancore-Cochin alone 5 ounces have been fixed?

Shri Thirumala Rao: Madras as a rice-producing State is able to depend on itself—whatever is allotted from the Centre is supplemented by internal procurement, but Travancore-Cochin is not capable of procuring so much.

Shri R. Velayudhan: May I know, Sir,.....

Mr. Speaker: I think I should go to the next question now. Rice has been discussed so many times. Let us go to the next question.

BRIDGE OVER RIVER ALWAYS

*276. **Shri Iyyunni:** Will the Minister of Transport be pleased to state:

(a) whether any estimate has been made for the construction of a bridge over the river Always to connect the two sides of the National Highways in Travancore-Cochin State; and

(b) whether any estimate has been prepared for connecting the two ends of the National Highways by means of a bridge at Eda Kochie in Travancore-Cochin State?

The Minister of State for Transport and Railways (Shri Santhanam): (a) and (b). Not yet; but surveys are being carried out to collect the necessary data for finalising the sites and designs of the bridges.

Shri Iyyunni: May I know whether there is a chance of those bridges being constructed in the near future?

Shri Santhanam: Not only a chance, but a certainty.

Shri Iyyunni: Within how many years?

Shri Santhanam: We must first decide about the design, and as soon as the design and the sites are fixed we will proceed with the construction.

Shri Iyyunni: How long will it take to decide that?

Shri Santhanam: I hope both the bridges will be ready in two or three years.

Shri Damodara Menon: With reference to part (a) of the question, was there a representation made to the Government that pending the construction of this bridge the existing railway bridge at Always may be thrown open for ordinary traffic at stated intervals?

Shri Santhanam: There may have been representations but our policy is

not to open railway bridges for such traffic.

RAILWAY STORES

*277. **Shri Raj Kanwar:** Will the Minister of Railways be pleased to refer to the replies given to my supplementary questions to starred question No. 296 on the 17th August, 1951 and state:

(a) the total book value of all the accumulated stocks of Railway stores referred to in the Shroff Committee's report; and

(b) the findings of the Auditors' report?

The Minister of State for Transport and Railways (Shri Santhanam): (a) Rs. 13,66,052.

(b) The Auditor's report has not been received so far.

Shri Raj Kanwar: Is the book value given by the hon. Minister the book value of stocks of various kinds which are in excess of twelve months' requirements?

Shri Santhanam: The value given is of those stocks which have been mentioned in the report, but the report itself says they were only illustrative and not comprehensive. We are trying to get comprehensive figures and in two Railways the auditors have been sent to check up and give us the figures. Their report has not yet been received. However, this is the value of those items which have been mentioned in the report of the Shroff Committee.

Shri Raj Kanwar: May I know what is the book value of stocks of various kinds of stores in excess of twelve months' requirements?

Shri Santhanam: That is the information that we are collecting.

Shri Raj Kanwar: In how many years will such surplus stores be exhausted?

Shri Santhanam: We have set up a special organisation in the Railway Board to deal with it and they are dealing with it item by item. I expect in a short time, probably in a year or two, there will be no surplus stores left?

Shri Raj Kanwar: Have the firm of chartered accountants compiled a general inventory of the total storeholding on two Railways as recommended by the Shroff Committee?

Shri Santhanam: A firm, Messrs. Rajjee of Bombay, was appointed to examine 300 selected items of excess

stocks on two Railways, namely the East Indian Railway and the B.B. & C.I. Railway. This firm has been working since September, 1951 and their report is expected to be available early in May, 1952.

Shri Raj Kanwar: May I know if any action has been taken with regard to the Bombay officers who are chiefly to blame and if so, what was the action taken?

Shri Santhanam: It is not as if any particular officer was to blame. Many of these excess stores were due to the purchases made during the war. At that time they had to buy any stores available in the fear that they may not be available later on. If any particular person has been found to be at fault suitable action will be taken.

RURAL POST OFFICES

*278. **Shri S. C. Samanta:** (a) Will the Minister of Communications be pleased to state the number of Post Offices opened between October, 1951 and December, 1951 according to two thousand population basis?

(b) How many villages having a population of two thousand, have been left after December, 1951?

(c) How many rural Post Offices have been opened since 1947 in groups of villages having two thousand or more population?

(d) How many Post Offices opened according to two thousand population basis are running on and how many have been discontinued?

The Deputy Minister of Communications (Shri Raj Bahadur): (a) 161.

(b) 5,509.

(c) 3,381.

(d) Working—10,966.
Closed—35.

Shri S. C. Samanta: May I know whether any villages having a population of 2,000 but falling within a radius of one or two miles of existing Post Offices are having post offices?

Shri Raj Bahadur: Yes. We have got a compact group basis for opening post offices also. If in a particular group of villages there are two villages which are not more than four miles apart from each other we open post offices for such compact groups of villages.

Shri S. C. Samanta: May I know whether any post offices had been turned into sub-offices?

Shri Raj Bahadur: I think many.

Shri B. K. Das: What percentage of the newly opened post offices is self-supporting?

Shri Raj Bahadur: I am afraid I am unable to give the information off-hand.

Shri J. N. Hazarika: What is the annual expenditure provided for this purpose?

Shri Raj Bahadur: The rule is that the loss should not go beyond the figure of Rs. 750.

Shri M. Nalk: What is the probable date within which this scheme is going to materialise?

Shri Raj Bahadur: According to the 1941 Census on 31st December 1941 the number of villages in which post offices had not been opened and which had a population of 2,000 and over were 1,707. The figures of the 1951 Census show that the number is now 5,509. I regret to inform the House that the budget position is so tight for 1952-53 that there is no provision at present for opening new post offices during the coming year.

Shri S. C. Samanta: With reference to part (d) of the question, may I know the reasons for the discontinuance of the newly opened post offices and whether or not conditions be so provided that those post offices may continue?

Shri Raj Bahadur: A period of five years has been prescribed for the experiment. If it is found during this period of experiment that the loss goes beyond Rs. 750 in regard to a post office, it has got to be closed.

Shri B. K. Das: Is that the reason why 35 post offices have been closed?

Shri Raj Bahadur: Obviously.

COTTAGE INDUSTRIES IN KUTCH

*279. **Shri Dholakia:** (a) Will the Minister of States be pleased to state whether Government have made any inquiry for developing cottage industries in Kutch?

(b) If so, what are such cottage industries and what steps have Government taken for their development?

The Minister of States, Transport and Railways (Shri Gopalaswami): (a) and (b). The Chief Commissioner of Kutch has constituted a Committee of officials and non-officials to enquire into and report on the possibilities of development of cottage industries in Kutch. At the suggestion of this Committee, Dr. J. C. Kumarappa, President, All India Village Industries Association, visited Kutch, held discussions

with the people interested in cottage industries and recently submitted a report to the Kutch Administration which is under examination. The existing cottage industries are:

- (1) Spinning and weaving of cotton and wool.
- (2) Tanning.
- (3) Dairy Farming.
- Silver and enamel works.
- (5) Knitting and needle work, etc.

There are possibilities of developing the following cottage industries:

- (1) Bee keeping and honey production.
- (2) Oil pressing.
- (3) Pottery.
- (4) Tiles and brick making.
- (5) Sheep breeding.
- (6) Rope making.
- (7) Dyes (printing of sarees).

Shri Dholakia: Have Government come to any decision regarding any of the industries?

Shri Gopaldaswami: Not yet; it is under examination, as I have said.

Dr. Pattabhi: Is it not a fact that filigree work in silver is one of the cottage industries for which Bhuj is noted and if so, what are the plans for its development?

Shri Gopaldaswami: Silver filigree work is one of the industries now in existence and Dr. Kumarappa's report deals with that also.

FAMINE IN AJMER

*280. **Pandit M. B. Bhargava:** Will the Minister of Food and Agriculture be pleased to state:

(a) whether any "Famine" in the technical sense in which it is used in the "Famine Code" has been declared in the whole or any part of the State of Ajmer;

(b) if so, since when and in which part or parts; and

(c) what conditions, if any, are necessary to be satisfied before famine can be declared under the "Famine Code" and in what respects the conditions prevailing at present in the State of Ajmer differ from such conditions?

The Deputy Minister for Food and Agriculture (Shri Thirumala Rao):

(a) Famine has not been declared in any part of the State in the sense in which it is used in the Famine Code.

(b) Does not arise.

(c) The following conditions should be satisfied before famine can be declared under the Famine Code:

- (i) Abnormal increase of labourers at Test Works.
- (ii) Utter failure of crops and rise in the prices of food-grains.
- (iii) Scarcity of fodder and mass migration of cattle and death of cattle in large numbers.
- (iv) Complete drying up of wells and tanks.
- (v) Increase of crime.
- (vi) Influx of beggars in towns and emigration of residents.

The conditions in respect of the above points, prevalent at present in the Ajmer State are not such as to demand the formal declaration of famine. Wells and tanks have not dried up and there is no influx of beggars and emigration of residents.

Pandit M. B. Bhargava: Is it correct to say that in respect to the other conditions, the conditions prevailing are those of famine?

Shri Thirumala Rao: As I have said already our Commissioner there has said that the conditions are not so bad there as to demand the declaration of famine in that area.

Pandit M. B. Bhargava: Have any statistics been taken of the tanks and wells that have already dried up?

Shri Thirumala Rao: Possibly these figures are with the Commissioner and I have not got them with me just now.

Pandit M. B. Bhargava: May I know whether more than 50 per cent. of the wells have already become dried up?

Shri Thirumala Rao: I have not got the details.

Pandit M. B. Bhargava: If the Famine Code does not apply to the present conditions in Ajmer, what is the law governing these conditions at present?

Shri Thirumala Rao: In certain respects I think the relief that is given is on a much higher level than is laid down in the Famine Code. The Famine Code is pretty old and the rates given in that Code are about two to three annas per head by way of daily labour wages. In view of the discussions raised by Pandit M. B. Bhargava recently, Government have recommended that a daily wage of Re. 1 is to be paid to labourers instead of eleven annas which they are receiving now and fourteen annas for female labour in the place of nine annas which they get at present and ten

annas is given, per head, in the case of child labour. By some inadvertance I said last time that maternity benefits were being given. They have been restored and are to be given to the women labourers. Government is going to review the matter further to see what more could be done to relieve the suffering of the people there.

Pandit M. B. Bhargava: From which date in the new State the benefits will come into force?

Shri Thirumala Rao: It will come very soon. Our recommendations have gone to the Finance Ministry and their sanction is awaited.

Shri A. Joseph: Are Government aware that the famine conditions are worse in the Rayalaseema and the circumstances there are such.....

Mr. Speaker: It is enough that the hon. Member has drawn the attention of the Government to the fact; the question is beyond the scope of present question.

Pandit M. B. Bhargava: Do the Government think that the provisions of the Famine Code at present are absolutely out of date and if so, do they propose to revise the Code so as to bring it in conformity with the changed conditions?

Shri Thirumala Rao: A new set up is coming very soon and they will review the whole position.

Shri Dholakia: May I know whether the same analogy will be applied to Cutch also, where similar conditions are prevailing?

Shri Thirumala Rao: I think the conditions are similar in Cutch also.

Shri V. J. Gupta: What places in Rayalaseema have been declared as famine areas according to the Famine Code?

Mr. Speaker: That does not arise out of this question.

Shri A. Joseph: What are the places where the Famine Code is now being applied by either the State Governments or the Central Government?

Shri Thirumala Rao: Each State has got a sort of Famine Code for itself and it applies that Code when conditions as described in the question arise.

Shri A. Joseph: My question is— which are the places in India where the Famine Code is in force at present?

Shri Thirumala Rao: Each State Government has got a Famine Code and they administer it.

Mr. Speaker: Evidently, he has no idea of the details.

RELIEF WORKS IN AJMER

*281. **Pandit M. B. Bhargava:** Will the Minister of Food and Agriculture be pleased to state:

(a) the number of the famine test or relief works which were in existence in the State of Ajmer in the month of October, 1951 and the number of such works existing at present;

(b) the number of labourers working at such test or relief works during the above period;

(c) the number of labourers working at such test or relief works who have to come to such works from a distance of (i) within four miles from their ordinary place of residence; (ii) four to ten miles and (iii) over ten miles;

(d) the scale of wages payable to such labourers at present and how it compares with the scale of wages prevalent in the year 1939;

(e) the quantity and quality of food grains supplied to the labourers at the various shops opened in famine test works; and

(f) whether the grain supplied is of a very bad and worm-eaten quality and contains lot of dust?

The Minister of Food and Agriculture (Shri K. M. Munshi): (a) The number of test works in October, 1951 was five, and the number of test works at present is 12.

(b) The number of labourers working on test works was as under:

October 1951	16,923
November 1951	21,030
December 1951	30,801
January 1952	44,447

(c) A statement (I) furnishing the information is placed on the Table of the House. Most of the workers included in the last two columns of the statement belong to Rajasthan who have apparently closed down the works on the border. Chief Commissioner has already been advised to open more works to reduce the distance.

(c) whether it was being paid in Ajmer in the famine of 1939 and is being paid there at present and if not, why not?

The Minister of Food and Agriculture (Shri K. M. Munshi): (a) and (b). With the introduction of the higher flat rates system the relevant provisions of Famine Code relating to the grant of allowances to children and maternity allowance to pregnant women have become inapplicable. It has since been decided to allow maternity allowance to be paid to female labourers. Children between the ages of 10 and 15 years are employed on test works and they are paid at the flat rate of 7 annas per head per day. I have informed the House already that it is being increased to 9 annas.

(c) Yes. But as stated already it is not being paid now in view of the introduction of the flat rates.

Pandit M. B. Bhargava: Is there any proposal now to give the allowance to children below the age of ten and to women?

Shri Thirumala Rao: I do not think it is permissible now.

Pandit M. B. Bhargava: Is it permissible under the Famine Code to allow the allowance to such children and women?

Shri Thirumala Rao: In view of the uniform rise in rates of payment, that is not adhered to now.

Pandit M. B. Bhargava: What is the prevailing rate of grains in the rural areas?

Shri Thirumala Rao: As far as these people are concerned, we are trying to supply them with foodgrains at controlled rates.

Pandit M. B. Bhargava: My question is—what is the price at which the grain is being sold in the rural areas?

Shri Thirumala Rao: I cannot say off-hand what are the rates prevailing in the market everywhere. I require notice.

Mr. Speaker: Does the hon. Member mean to ask whether the control rates are higher than the rates in the local markets? What is his point?

Pandit M. B. Bhargava: My point is whether the rise in the wages is commensurate with the rise in prices.

Shri Thirumala Rao: The wages have been increased with a view to equalising the rise in prices.

WRITTEN ANSWERS TO QUESTIONS

"GROW MORE FOOD" SCHEMES

*263. **Shri V. Gangaraju:** Will the Minister of Food and Agriculture be pleased to state:

(a) the total number of "Grow More Food" Schemes received up to 31st January, 1952 from different States under the 1951-52 Programme; and

(b) the number of schemes sanctioned up to 31st January 1952 out of the above schemes?

The Minister of Food and Agriculture (Shri K. M. Munshi): (a) and (b). A statement giving the required information is placed on the Table of the House. [See Appendix II, annexure No. 11.]

PALM TREES

*283. **Shri Bharati:** (a) Will the Minister of Railways be pleased to state whether palm trees standing on Railway lands are given to the public on rent for the manufacture of palm *gur*?

(b) If so, what rent is charged for the season per tree and what is the compensation charged if a tree dies during the operation?

The Minister of State for Transport and Railways (Shri Santhanam): (a) and (b). Right to tap palm trees on various sections of Railway land is being granted as a result of annual auctions. The rent naturally varies from section to section. The question of charging compensation for trees which die during the operation does not appear to have arisen so far.



PARLIAMENTARY DEBATES

(Part II—Proceedings other than Questions and Answers)

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Fifth Session

of the

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1952

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CORRIGENDA

to

the Parliamentary Debates (Part II—Other than Questions and Answers), Fifth Session, 1952

In Volume I,—

1. No. 2, dated the 6th February, 1952,—

(i) Col. 23, line 33 for "to provide for" read "further to amend", and in line 2 from bottom for "further to amend" read "to provide for".

2. No. 5, dated the 12th February, 1952,—

(i) Col. 309, for existing last line read "chancellories or in government, but"

(ii) Col. 362, line 31 for "Kamth" read "Kamath".

3. No. 6, dated the 13th February, 1952,—

(i) भाग ३९१, पंक्ति १५ में "एम जुनही" के स्थान पर "जुल्म नहीं" पढ़ें ।

(ii) भाग ३९२, पंक्ति २५ में "बतक" के स्थान पर "बक्त" पढ़ें ।

(iii) Col. 443, line 8 for "ony" read "only".

(iv) کالم ۳۷۲ آخری لائن کے شروع میں وہ ملی ہیں ان کے متعلق یہ پڑھیں —

(v) Col. 529, for existing last line read "excess of such moisture as may reasonably be expected, by watering the".

(vi) Col. 530, insert "both parties are protected. They pro—" as last line.

4. No. 8, dated the 15th February, 1952,—

(i) Col. 648, after line 7, insert "this demand has come before the House today, that".

(ii) Col. 658, line 32 for "OUTLAY" read "OUTSIDE".

(iii) Col. 659, line 6 from bottom for "Jagivan Ram" read "Jagjivan Ram"

(iv) Col. 676, last line for "liament" read "Parliament".

(v) Col. 686, line 16 from bottom for "Gapalaswami" read "Gopalaswami".

5. No. 9, dated the 18th February, 1952,—

(i) भाग ८०३, नीचे से पंक्ति ४ में "जचित राम" के स्थान पर "अचित राम" पढ़ें ।

6. No. 11, dated the 20th February, 1952,—

(i) भाग १००७, पंक्ति ९ को "की जरूरत है" पढ़ें ।

7. No. 14, dated the 23rd February, 1952,—

(i) Col. 1184, line 8 for "Jagivan Ram" read "Jagjivan Ram".

(ii) Col. 1191, for existing line 4 read "Clause 6 —Contributions and matters".

(iii) भाग १२२७, पंक्ति १० में "यस्य" के स्थान पर "सत्तम" पढ़ें ।

8. No. 15, dated the 25th February, 1952,—

(i) भाग १२५४, पंक्ति २४ में "रती" के स्थान पर "तीर" पढ़ें ।

9. No. 19, dated the 29th February, 1952,—

(i) Col. 1564, in the beginning of line 17 from bottom insert "voted".

(ii) Col. 1612, line 3 from bottom for "purpose" read "propose".

(iii) भाग १६२४, पंक्ति ५ में "सउन" के स्थान पर "उस ने" पढ़ें ।

THE
PARLIAMENTARY DEBATES
(Part II—Proceedings other than Questions and Answers)
OFFICIAL REPORT

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PARLIAMENT OF INDIA

Thursday, 28th February, 1952

The House met at Half Past Nine of the Clock.

[MR. SPEAKER in the Chair]

QUESTIONS AND ANSWERS

(See Part I)

10-28 A.M.

RESIGNATION OF MEMBERS

Mr. Speaker: I have to inform the hon. Members that the following Members have resigned their seats in Parliament with effect from the 26th February 1952:

- (1) Shri Kashinathrao Vaidya.
- (2) Shri Mahamaya Prasad Sinha.
- (3) Shri Konda Venkat Ranga Reddy.
- (4) Shri Annarao Ganamukhi.
- (5) Dr. M. C. Reddy.
- (6) Shri Arigay Ramaswamy.
- (7) Shri Nandkishore Das.

BUSINESS OF THE HOUSE

Mr. Speaker: I believe that, during the course of the discussion yesterday the hon. Finance Minister stated that Government are going to introduce a Bill...

An Hon. Member: And pass it.

Mr. Speaker: The hon. Member will just bear with me till I finish my sentence. Not merely introduce it but also pass it. This declaration necessitates a little change in the programme. Half a day will be allotted on the 5th March for all the stages of the Finance Bill.

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Shri Kamath (Madhya Pradesh): Half a day?

Mr. Speaker: Not even half a day; only half a sitting.

Dr. Pattabhi (Madras): Morning half or evening half?

Mr. Speaker: We shall decide that point, but very probably it will be the morning half when Members would be fresh and in a position to advance their arguments with vigour.

The point, I may mention again, is that the House has practically to pass the Bill, inviting attention only to the important aspects. I do not know what the nature of the Bill is. We shall know it when it comes, but I presume that, it will continue the normal taxes, and that it will not go very much away from the present position. It may or it may not. I do not know and I may say that I know absolutely nothing about it. But the point is that, it will again come under scrutiny in some form or other before the next Parliament when the House will get some time to go into it *in extenso*. This Bill is intended to be introduced and passed in order to avoid two difficulties. One difficulty is the necessity of issuing an Ordinance, which I am sure this House would not like to be done. The House has already expressed its displeasure at the practice of Ordinance-issuing. So far as it is possible it is in the interest of the House to help the Government to encourage legislation rather than ordinances, by shortening debates taking into consideration the time at the disposal of the House. That will also lead to another consequence, the avoidance of a declaration which was a method adopted in the old set-up. A Bill is introduced and a declaration is made. Of course, in the present instance there was also the legal difficulty that a declaration could not stand if the Bill that was introduced would fall through. That was another point. Bearing all this in mind, I am fixing

[Mr. Speaker]

a comparatively shorter time than perhaps, some hon. Members may wish to have.

Shri Kamath: Is the allotment of half a day, or half a sitting as you said, on the presumption that there will be no new taxes and the old taxes would continue? Is the House to understand that more time will be allotted in case there are surprises in the Finance Bill?

Mr. Speaker: I myself do not know what the Budget proposals of the Finance Minister are. We shall know them tomorrow. I am as well in the knowledge of things as any hon. Member in the House. I have no information as to what the Finance Ministry is contemplating or what the Cabinet is considering. But, in view of the new set-up that is coming and in view of the declaration made by Government from time to time that they do not want to introduce any controversial measures, I should be inclined to think that, there may not be any new proposals. But I cannot be sure about it and if such an occasion arises, we shall see how to deal with it.

Dr. Pattabhi: Considering that half a day comes to one and a quarter hours or stretching it, to one and three quarters of an hour and considering the seriousness of the work on hand which has to be condensed within that period, cannot the Government consider the alternative of lengthening the sitting by a couple of days?

Mr. Speaker: I have expressed on former occasions that it does not look nice that we should go on extending the session from time to time. It not only upsets the engagements of various people, their programmes and plans, but also creates an impression that we are not capable of planning so well as to finish our business in the time stated. If we are to think of Five Year Plans, I think we should as well get ourselves accustomed to put through our one month's plan in time instead of prolonging it by a day or two. We must cultivate the habit of condensing our work within the period fixed.

As I said, the House will have half a day or two and a half hours and assuming that there are no new taxes, what is there to be said again I am, of course, proceeding on the assumption that there will be no new taxes proposed. In that case it should not take even a minute. If it is a ques-

tion of general discussion, it is a different matter, but there is nothing much to be said about the continuation of the *status quo* till the new Parliament meets. It is just a question of two or two and a half months. This is my personal reaction. Let us see what the picture of the Finance Bill is.

Dr. Pattabhi: I would just wish to know whether it looks nice to contract the work or to congest it.

Mr. Speaker: As I said, we must cultivate the habit of condensing arguments and speeches just to the point instead of going on spinning a long way.

Now the House will proceed with the further consideration of the Bill to provide for the repeal of the Criminal Tribes Act, 1924, and certain other laws corresponding thereto.

CRIMINAL TRIBES LAWS
(REPEAL) BILL—concl'd.

Pandit Thakur Das Bhargava (Punjab): I must congratulate the hon. Mr. Sidhva for bringing this Bill in this House. I have gone through the proceedings of the Committee and I must take this occasion to express my appreciation of the great work done by this Committee. The conclusions are such that I do not think anybody in the House will have occasion to controvert anyone of them. On the contrary, the public feeling in the country has been expressed by the Committee in appropriate words. I wonder why we have taken these four long years to repeal this Act. So far as the provinces in which the inhabitants of the criminal tribes live are concerned they are almost unanimous that the Act should be repealed as early as possible.

Out of 18,37,845 inhabitants of criminal tribes, 16,68,845 live in Uttar Pradesh and the recommendations of the Criminal Tribes Act Enquiry Committee of the U.P. which was set up in 1946 was that this Act should be repealed. Punjab which has 67,564 people of the Criminal tribes has agreed to the repeal of the Act. The Inspector-General of Police in the Punjab as well as the Deputy Commissioner of the Criminal Tribes were consulted and both of them were of this view. So far as Orissa is concerned, it is unfortunate that the Government of Orissa recommended that the Act may be continued for ten years.

I need not go into the opinions expressed by the Governments of the States because most of them are agreed on the point that the Act should be repealed. Even so far as the constitutional position is concerned, this Act cannot be allowed to remain on the Statute Book any longer. There is an amendment by the hon. Minister himself that this Act may be allowed to remain in force till the 31st of October. As it is the intention of some State Governments to substitute this Act by the Habitual Offenders Act, some time must be given to them.

It is accepted on all hands today that Criminal propensities represent a certain kind of pathological disease in every person and the accepted remedy is that of reformation. Looked at from this point of view I think that even the Habitual Offenders Acts which have now been in existence in some of the States are also not based on right principles. We shall have further occasion even to amend them. There was a proposal made by the Criminal Tribes Enquiry Committee that an all-India Act may be passed so that there may be uniformity for the whole of India in respect of this matter. I think this matter did not find support with the hon. Minister and he has left it to the States to enact such laws as they please suitable for their own local conditions.

I cannot resist the temptation of submitting for your consideration how I began to take interest in this matter. It so happened that in the Hissar district there was a very severe famine and from many villages people had fled. Even the animals were taken away. Even the birds had flown away from those villages. But these unfortunate people, the members of the criminal tribes, were forced to live there. They had no means of subsistence. They could not live there. I applied on behalf of four of them that they may have the permission to migrate from one police station to another. The Deputy Commissioner of the district was very kind and though there was no provision for such a transfer from one police station to another, he went out of the way and told me, "Though the Act does not permit it, I cannot possibly as a human being entertain the idea that these people should be forced to live in conditions where they cannot subsist", and he passed an order. When the order went to the Superintendent of Police he did not obey it—though he was quite right in not obeying it. Then I submitted to the Punjab Government an application that a change should be made in the law. Ultimately it so happened that there was a

question of conversion so far as these people were concerned. Some persons just held out the temptation to the Aheris of Hissar district that they should all be converted to Islam if they wanted to take advantage of the fact that they could all be removed from the category of criminal tribes. A date was appointed, and all the Aheris were to be converted. When we got scent of it many societies came forward and told them that they should not get converted and that every effort shall be made to see that they are taken away from the category of criminal tribes. I had already worked for these people and got about five hundred exemptions from the Punjab Government. I told them that they should give six months' time and the Aheris agreed to give us six months, and within that time we saw that these people were taken away from the category of criminal tribes. As a matter of fact Aheris were never criminal.

This Act is not only an anomaly but, I should say, a black spot on our statute book. I know of other tribes in my district who really do not belong to criminal tribes, for instance the *Baorias*. They are the *chowkidars* in the village. Yet they are members of the criminal tribes. The conditions are the same not referred to other tribes. So far as the Punjab is concerned the Punjab Government sent to us a communication when I was Chairman of the Jail Enquiry Committee. They told us that they wanted to repeal the Act and they asked us to make our recommendations. But since this Criminal Tribes Enquiry Committee was sitting I wrote to them that we would await the recommendations of that Committee.

I understand all the States in India are anxious to repeal this Act and nobody, nor the Minister, wants its prolongation when he asks the House to give him eight months' time. I know he is personally very anxious and has done all he could in this matter. His activities in the House and in other places on this question have been so commendable that we know he has put his heart into this, and I think it is more or less due to him that we are having the repeal of this Act in this session. All the same I would request him not to take so much time and to repeal it as early as possible. The only point on which time is wanted is that the States may be given time to enact the Habitual Offenders Act, if they so like. For that purpose I think three or four months is quite sufficient. Indeed it would be very creditable if all the States when their new Assemblies meet enact as their

[Pandit Thakur Das Bhargava]

first law the repeal of this Act. That will be a very creditable thing. It will be in keeping with our conceptions of liberty and our Constitution. I would therefore request the hon. Minister to accept an amendment that within three or four months India will be freed from the tentacles of this Criminal Tribes Act. I again congratulate him and the House on the decision they have taken, and although it has not been taken a day too soon still it is good that we have taken this decision and that we are repealing this Act.

Dr. Pattabhi (Madras): I feel inclined to say a word in support of this Bill which has come none too soon. When the Congress Governments came into existence in 1937 I urged in my Province that the repeal of this Act should be taken on hand as the first measure of amelioration for lakhs of people who are suffering under the tyranny of the police. I was taken to jail once at Vellore and I could not be put into the jail at once. I was lodged in the police-station. I saw there early in the morning about forty or fifty corpse-like bodies lying flat on the bare ground without even a mat, and when I enquired what the matter was, they said that they were members of the criminal tribes who under the law had to sleep in the compound of the police-station. The very pigs and dogs are not treated like that. And if they do not, they are sentenced to one year, two years and so on.

It is a common habit of the policemen on beat at nights to visit these areas and call out the names of the people who must answer and give attendance twice in the night, once at 11 o'clock and another time at half-past one or two. We all know in what dread we go to bed if we have to wake up at midnight in order to go to the aerodrome or the railway station. But day in and day out and night in and night out, these people have to sleep under the fear of being called and giving attendance. Granted, that they give attendance, that does not matter. If the policeman wants his goat, pig or fowl and does not get it he will mark him absent. There is no appeal and he is immediately hauled up and given six months imprisonment. The man cannot go to his brother's place or his cousin's place or his father-in-law's place or see his wife who might have gone for confinement to her mother, and leave will not be granted unless a bribe is passed.

Apart from this, a very peculiar custom prevails in the South Indian jails. There the work of scavenging is not allotted to all prisoners irrespective of their caste. It is only assigned to Harijans and to members of the criminal tribe. Whenever they feel a paucity of scavengers in the jail all that the Superintendent of the jail has to do is to inform the Superintendent of Police and immediately a batch of these people are convicted and sent to jail, and these people do the business. The police officers have got so much accustomed to free services (petty labour) from these people that somehow or other they get these people to do their work at home, always free.

This is a most atrocious law. Once it was said that untouchability was a blot on civilization and a sin against God. Well, I think that remark will equally apply to this. It is a very small matter as to whether the law is repealed eight months hence or six months or four months hence or immediately—because there are amendments to the effect of the latter three—but it must be repealed. And when once the decision is taken to repeal it I do not mind when it is repealed provided it is not later than October this year.

Mr. Speaker: I may point out to hon. Members just what the hon. Member, Dr. Pattabhi, himself has pointed out. There seems to be an all-round agreement on the question that the Bill as it goes is all right, the principle is conceded—in fact Government themselves are bringing this Bill for the repeal of the Act. I do not think, if you want to save time, that any discussion of that issue is necessary at all. The only point of difference which appears, as he also pointed out at the end, is whether the period should be eight months hence, four months hence or immediately. There too the scope of the controversy is very much narrowed down. So I think it will be better, in view of the pressure on our time, not to take up time in further arguments over the undesirability of the measure as it existed till now or over the sufferings that had been inflicted on these people up to now. But it is for hon. Members to take that into consideration. I think all that will be unnecessary as it will be carrying coal to Newcastle.

Shri Naziruddin Ahmad (West Bengal): I rise to support the Bill, but I am afraid I have to strike a different note. The name of the Act is Criminal Tribes Act. The name itself suggests some kind of discrimination.

against same tribes. But the experience about some of these tribes which have been dealt with under the Criminal Tribes Act, apart from the exceptions as pointed by Dr. Pattabhi, shows that crime follows in the wake of the travels of some nomadic tribes whenever and wherever they go, and crimes suddenly spring up and it has been found difficult to cope with their criminal activities. They inherit from heredity some criminal tendencies. I should therefore suggest that a very careful inquiry should be made to find out the propensities of some of the tribes. The inquiry should be very liberal. If there is any room for doubt, that doubt must be exercised in favour of liberty, but if there are any substrata of facts leading to public danger, I think the Government should carefully know them and before bringing in a Bill to replace the law, the law should be liberalized. The police administration should also be liberalized if there is any doubt, that doubt must be exercised in favour of liberty. These are some of the few suggestions that have occurred to me and I hope the Government will remember them in deciding the course of their future action.

[SHRIMATI DURGAJI in the Chair]

Shri Jaipal Singh (Bihar): I rise to say only a very few words. I do not think that any argument is necessary in support of the Government decision to repeal this heinous Act that has been in the Statute ever since 1871. First, I would like to congratulate my friend, Mr. Sidhva, for finding himself playing the role of atonement for the criminal negligence of all Governments ever since this Act was passed. It is unfortunate that the matter of repeal did not come up before this House earlier, although we have been independent for several years. I am not worried so much about the repeal as I am worried about the prospective aspect of the repeal. What is the next step? I would like my hon. friend in his reply to give us some picture of what he and other Governments, namely the Central and State Governments intend to do, to find a substitute for the repeal of this wicked and unwanted Act. We have been in the habit of receiving reports of all kinds, a great deal of window-dressing takes place about the apparently wonderful work done among the people, the so-called criminal tribes, the Scheduled Castes, the Scheduled Tribes and other backward classes. Now if this Act is repealed, I want to know under what category these so-called criminal tribes will

come in regard to the beneficent acts of the Central Government as well as those of the State Governments. Take the instance, for example of the educational facilities and other welfare work that must be done among them. Are the so-called criminal tribes going to come within the purview of the other backward classes or are they going to be scheduled with the Scheduled Castes or the Scheduled Tribes? What is going to happen? Under what category is it proposed that these people should, after the repeal of this Act, be brought, because that is very important? There are the directive principles of the Constitution. Well, to what extent do Governments, Central and provincial, intend to implement these directive principles in particular regard to the immediate amelioration of these people, to bring them at least to the lowest level of the backward classes, if not to the general level? I would like my hon. friend to give us some picture of that. It is not enough to repeal this Act. It is not enough to declare from our house-tops that untouchability is hereby abolished. That is not enough. I would like to know what his plans are to see that these people, once the Act is repealed, are not neglected any more.

There is another thing also which I would like to suggest. There is a special Commissioner whose job it is under the Constitution to report about the welfare activities of various Governments in regard to the Scheduled Castes, Scheduled Tribes and other backward classes. Now should the so-called criminal Tribes come under any one of those categories? I would like Government to commission the Special Commissioner to inquire into the prospective aspect of the work that has to be done among them hereafter and I do hope that report will be ready very soon and it will be laid on the Table of the House, so that we may be assured that we have not repealed the Act, merely to feel righteous about it, but there is the next step of bettering the conditions of these people, so that the blot may not continue for long.

Then, there is one other aspect also. According to the finances of this country, there are certain *ad hoc* funds set apart for specific sections of the community. I would like to know from my hon. friend whether it is his intention to get the Minister of Finance at the Centre to earmark specific sums for ameliorative measures of these 3½ million people. I think they are much more now. I think they were 3½ million people about the year

[Shri Jaipal Singh]

1941. I do hope that he will not rest merely with the repealing of this Act for which he has my warmest congratulations but he will take the next step, which is the logical step, that is to insist that there is a fund earmarked which will be used specifically to see that the stigma that has been there will cease to exist for eternity hereafter.

The Minister of State for Home Affairs (Shri Sidhva): I am very glad that the whole House without a single dissension has welcomed this measure.

Shri R. Velayudhan (Travancore-cochin): We are not given a chance to speak. Therefore, you cannot say that.

Shri Sidhva: You say that you did not speak. Well...

Mr. Chairman: The hon. Member did not get up.

Shri Sidhva: Whatever that may be it is certain that from the speeches of hon. Members who have spoken, they were so encouraging to that class of people (tribes) that when they come to know this, they will certainly appreciate that the House is all practically of the unanimous opinion that this Act should go. There is only one difference, as regards the period within which this Act should be repealed. My hon. friend, Mr. Bhatt stated that it should be repealed forthwith and he stated that I had become weak and weak ever since I came from that bench to this bench. My friend forgets that as far as the Delhi State is concerned, which is governed by the Central Government, this Act was repealed on the 11th December 1951, exactly two months after I took office. In Ajmer, it was repealed a week thereafter. From this, he will see that in the Centrally Administered States, we have taken the minimum time in seeing that this Act is repealed. Therefore, it was not correct on his part to say that my enthusiasm has slackened because I have come here. My enthusiasm is growing. The only difference is I am utilising it for a better purpose.

11 A.M.

An Hon. Member: All Part C States?

Shri Sidhva: I told you Delhi and Ajmer. These are the only two States which are now controlled by the Home Ministry in which the so-called criminal tribes exist. All Part C States are not under the Home Ministry.

I quite appreciate the intense feelings of the House that this Act should be repealed as early as possible. I am absolutely at one with them. The very fact that in the areas under the control of the Home Ministry this Act has been repealed shows our *bona fides*. But we are absolutely in the hands of the State Governments. My hon. friend Pandit Thakur Das Bhargava and some others also said that some of the State Governments have consented to repeal the Act. My regret is that all the State Governments agreed to repeal but in action they have not repealed. The Home Ministry has been reminding them frequently to repeal and actually the repeal has not taken place. Therefore, we have been compelled to bring this Bill as an all-India measure to repeal it once for all.

My hon friend Shri Jaipal Singh asked what would be done next after repealing this Act. That is a pertinent question. That is exactly the reason why we want some time. The State Governments of Bombay and Madras have enacted the Habitual Offenders Act. Similar Acts will have to be passed by the other State Governments. My hon. friend Pandit Thakur Das Bhargava has made a useful suggestion that such an Act should be an all-India Act. As I was going through the Bombay and Madras Acts I found they differed in some respects. I do feel that if all the States go on making Acts containing provisions which existed in the old Criminal Tribes Act, we will only be undoing what we intend to do. Therefore, the Government will consider the suggestion whether it is possible to have an All India Act so that there may be one kind of measure for the repeal of this Act and for the betterment and emancipation of this class of people. I may tell my hon. friend Shri Jaipal Singh that in the Habitual Offenders Acts there is a provision that there should be reclamation colonies, industrial institutions, schools, hospitals etc. Of course, that is only a provision. We shall have to see that practical shape is given to that provision. I agree with him that laws are there and practical shape is not given to them. I may assure the hon. House that we will inform the State Governments that it is the desire of the House that this Act should be repealed within the period I shall mention, and also when they have an alternative Act, they must see that the provisions are put into operation. That is the assurance that I would give to the House: I will convey this to the State Governments.

As regards the period, there is a proposal that it should be immediately done. That is not possible. There is a proposal giving three months' time; there is a proposal for 4 months; there is a proposal for 6 months; my proposal is for 3 months. I may assure the hon. House that Government are very anxious and they do not want this Act to remain in force for one minute longer. But, the difficulty is that the State Governments have to pass through their legislatures certain alternative Acts. Now, the earliest that they can meet is in the month of May. I am told that in the Punjab they have already prepared a Bill. In Madhya Bahrat also they have prepared a Bill.

Pandit Thakur Das Bhargava: In Punjab, the Act is there: the Act of 1918.

Shri Sidhva: I was told that they want to make alterations; they have prepared a Bill on that line.

As I told you, the earliest that they can meet is in May. They will require some time to go through this Act. I do not know what difficulties may arise then. I had considered 6 months as a reasonable period. As I see the sense of the House and as I found in my informal discussions also, I am prepared to make a concession of two months. In less than six months, it cannot be done. I will inform all the State Governments of this and I hope the House will be pleased to accept six months as the minimum period. I have given notice of an amendment and I shall move it at the proper stage. I hope hon. Members will pass the Bill unanimously.

Pandit Thakur Das Bhargava: I have given notice of an amendment for six months.

Mr. Chairman: I have seen that. I shall come to that later.

The question is:

"That the Bill to provide for the repeal of the Criminal Tribes Act, 1924, and certain other laws corresponding thereto, be taken into consideration."

The motion was adopted.

Mr. Chairman: Clause 2. I think the hon. Minister is accepting the amendment of Pandit Thakur Das Bhargava.

Pandit Thakur Das Bhargava: My amendment may be taken as moved.

Mr. Chairman: You can move it.

Shri Sidhva: There is an amendment to clause 1.

Mr. Chairman: I will come to clause 1 later. There are a number of amendments. I would call upon Pandit Thakur Das Bhargava to move his amendment, and he will move his amendment. Before I do so, I would like to know from the other Members whether they are pressing their amendments in view of the statement of the hon. Minister that he is accepting Pandit Thakur Das Bhargava's amendment to the effect that six months should be the period.

Shri Sidhva: May I make the position clear? While I accept the six months period, I would like the language to be as I have proposed.

Pandit Thakur Das Bhargava: The language may be as the hon. Minister proposes.

श्री भट्ट : भाषा जो आरको रखनी हो सो रखें ।

[**Shri Bhatt (Bombay):** You may have the language of your own choice.]

Shri Sidhva: To save time, I may say that I accept in clause 1, line 5, Pandit Thakur Das Bhargava's amendment that it shall come into force immediately.

Clause 2.—(Power to repeal)

Mr. Chairman: May I take it that none of the amendments to clause 2 will be moved because Pandit Thakur Das Bhargava's amendment to clause 1, if it is accepted, would serve the purpose?

Dr. K. V. Thakkar (Saurashtra): In view of what the hon. Minister has stated, I do not propose to move my amendment.

श्री भट्ट : मेरा कहना इतना ही था कि जिस तरह से माननीय मंत्री जी ने कहा है कि अगर पहले भी वह इसको रिपील करवा सके, तो करेंगे, तो वह चीज उस में आनी चाहिये ।

[**Shri Bhatt:** The hon. Minister has stated that he will try to have it repealed earlier if possible. What I meant to say is that this should be incorporated herein.]

Shri Sidhva: I cannot go beyond what I have stated.

Mr. Chairman: May I take it that he is not moving his amendment?

श्री भट्ट : नहीं, मैं पेश नहीं कर रहा हूँ ।

[Shri Bhatt: No, I am not moving it.]

Shri A. C. Guha (West Bengal): I do not like to move my amendments; but I have certain misgivings which I hope the hon. Minister will consider. In the Statement of Objects and Reasons it has been stated that the State Governments will enact some Habitual Offenders Act. There is almost a suggestion on behalf of the Central Government to the State Governments. I do not know whether the Habitual Offenders Act will be a perpetuation of the Criminal Tribes Act in another name or shape. I think this Habitual Offenders Act should be enacted by the Central Government instead of leaving it to the State Governments. It should be framed on the latest scientific theory of penology. It should be on the basis of reclaiming the offending persons from their ways and not on the basis of branding them as criminals and enemies of society for all time. These are the misgivings in my mind I hope the hon. Minister will see that the State Governments do not make the Habitual Offenders Act a perpetuation of the old Criminal Tribes Act.

Shri Sidhva: Realising what the hon. Member has said now, I had already stated that the suggestion made by Pandit Thakur Das Bhargava would be considered by the Government. All these points will be borne in mind.

Mr. Chairman: Mr. Kapoor.

Shri Sidhva: I am accepting Mr. Kapoor's language. It is only a matter of language.

Shri J. R. Kapoor (Uttar Pradesh): I do not propose to move my amendment in view of what has been stated.

Mr. Chairman: The hon. Minister is prepared to accept his amendment suggesting that instead of the words "shall be repealed" the words should be "shall stand repealed". Will he now move his amendment?

Shri J. R. Kapoor: Yes, Madam. I beg to move:

In page 1, line 11, for "shall be repealed" substitute "shall stand repealed".

Mr. Chairman: Amendment moved: In page 1, line 11, for "shall be repealed" substitute "shall stand repealed".

Shri Sidhva: I have a comprehensive amendment to clause 2 of the Bill which incorporates the change proposed by my hon. friend in his amendment.

Amendment made:

For clause 2, substitute:

"2. Repeal of Act VI of 1924 and corresponding Laws.—The Criminal Tribes Act, 1924 (VI of 1924) and every other law corresponding thereto in force in any State or part thereof shall stand repealed on the 31st day of August, 1952, but the Central Government may by notification in the Official Gazette declare that the said Act or any corresponding law shall stand repealed in any State or part thereof with effect from any earlier date."

—[Shri Sidhva]

Mr. Chairman: In view of the fact that this amendment has been adopted by the House, the amendment moved by Mr. Kapoor changing the words to "shall stand repealed" does not seem necessary.

Shri J. R. Kapoor: Since the change that I sought to effect has been incorporated in hon. Minister's amendment, I would request leave of the House to withdraw my amendment.

The amendment was, by leave, withdrawn.

Mr. Chairman: The question is:

"That clause 2, as amended, stand part of the Bill."

The motion was adopted.

Clause 2, as amended, was added to the Bill.

Clause 1.—(Short title and extent)

Amendment made:

In page 1, after line 5, insert:

"(3) It shall come into force immediately."

—[Pandit Thakur Das Bhargava]

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.

The Title and the enacting formula were added to the Bill.

Shri Sidhva: I beg to move:

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

Mr. Chairman: Motion moved:

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

Shri R. Velayudhan: A glossy picture has been presented to this House of this Bill, but a very important factor has been omitted in this Bill. The House has been considering this Bill as a sort of charter of liberation for about 4 million people of this land. But as Shri Guha pointed out, by giving seven months' time to the States to enact some other legislation in some different form, great harm has been done, for I too have my fear that these so-called Habitual Offenders Act will be enacted by the respective States and that will be only the same old Criminal Tribes Act in another form which had been on our Statute book for the last 100 years. The House has to remember the fact that we have not taken up the question of the committee of enquiry which was appointed about two years back. I know what an amount of difficulty we had at the time of appointing it in getting the Home Ministry to agree to it. The late Thakkar Bapa had a lot of difficulty in moving the Hon. Home Minister and also the Home Secretary to appoint a committee of enquiry on this subject.

What are the recommendations of the Enquiry Committee? Is this Bill in accordance with the recommendations of that Committee at all? The Committee has specifically said that there is no need for such a law on the statute book at all: at any rate, it is indirectly hinted at. It is a kind of Preventive Detention Act, which had been perpetuated for the last one or two centuries.

Therefore this Bill ought not to have been in this form. It should have totally repealed the Act and it should not be in any form in any part of the country. This hydra-headed dragon is coming out again in some form or other in the States in order to perpetuate slavery on the unfortunate people. Therefore the House should not go away with the impression that four million people are being liberated by the noble act of this Parliament. They are not going to be liberated by this Bill. In one form or another it will come in the States and the Home Minister is

giving the opportunity to the States to make legislation there.

What has the Madras State done some years ago? The Chief Minister and the former Home Minister clearly stated that in Madras State there was no need for such legislation at all. Therefore the Madras State has totally repealed that legislation. In Mysore also they have passed a similar legislation for the removal of the old Act. Therefore, why should not this legislation be taken away from the statute book totally? Even in the Report of the Committee itself it is said that very few among the criminal tribes are habitual offenders. I have studied the social and economic conditions of the criminal tribes after my education in the university, under the auspices of the All India Harijan Sangh.....

Shri Sidhva: May I know whether the hon. Member is in favour of the repeal or against? He seems to suggest that he is not supporting the Bill.

Shri Kamath (Madhya Pradesh): He says it does not go far enough.

Shri R. Velayudhan: You are not repealing the Act in terms of the liberation of the people. You are only changing certain legal matters and that is my contention.....

Pandit Thakur Das Bhargava: It is entirely wrong.

Mr. Chairman: The hon. Minister wants to know whether you are against the repeal or in favour? That is the question.

Shri R. Velayudhan: The impression has been given as if with the passing of the Bill the liberation of the criminal tribes will take place immediately. That is a wrong impression and I want to bring that to the attention of the House. That is clear and any intelligent person can understand it. But a rosy picture was given about the Act.

As I said I was able to study the social and economic conditions of the criminal tribes. I conducted a survey for one and a half years under the auspices of the All India Harijan Sevak Sangh. In fact when I read the report I felt that it was just what I had submitted to the Harijan Sevak Sangh. Thakkar Bapa and even Mahatmaji have stated several times that there was no need for this Act at all. We cannot condemn a class of people under the Act. It is against the Constitution not only in letter but in spirit also. Therefore I want that the Act should be repealed.

[Shri R. Velayudhan]

as a whole and the Central Government should force the respective State Governments that they should not bring any other fresh legislation regarding criminal tribes.....

Pandit Thakur Das Bhargava: No legislation will be enforced against the criminal tribes in future. The Habitual Offenders' Act does not refer to criminal tribes at all. The law is provided for the whole of population of the state and for all classes.

Shri R. Velayudhan: Then why do you give ten months' time for another Habitual Offenders' Act, if it does not affect the criminal tribes.

Mr. Chairman: I am afraid the hon. Member is mistaken. The time asked for by the Minister is to see that these Acts are repealed by the State Governments. He wants to wait till such time when all the State Governments have repealed the Acts.

Pandit Thakur Das Bhargava: The time is given to enable State Governments to bring in another legislation. The Minister himself stated it. Even today the Acts exist in many States such as Madras, Punjab and Rajasthan.

Shri R. Velayudhan: Even that is a wrong thing and it should be abolished.

Pandit Thakur Das Bhargava: How can it be wrong?

Shri R. Velayudhan: They take action direct or indirect under the Act.

Pandit Thakur Das Bhargava: There is no direct action.....

Shri R. Velayudhan: You do not know. I have studied the thing. The Act will certainly affect the life of the criminal tribes. That is what is going to happen. Let not the House go away with the impression that four million people have been liberated by the repeal of the Act. The Act may come in another form later on.

Pandit Thakur Das Bhargava: I was rather surprised to hear the speech of the hon. Member who preceded me. He has entirely misunderstood the Habitual Offenders' Act. It is already operating in the whole country.....

Shri R. Velayudhan: I have understood it as it has operated on the practical side and not on the legal side.

Pandit Thakur Das Bhargava: I am glad that my hon. friend confesses that he has failed to appreciate its

legal aspect. All the same I may respectfully tell him that he has failed to appreciate it from the other aspect too.

The Punjab Habitual Offenders' Act was passed in the year 1918 and it has been in operation for the last 34 years. Madras and Bombay have also passed their Acts. Similarly in Rajasthan the Act is in operation today. The Habitual Offenders' Act has no relation to the Criminal tribes as such. Every member of society to whatever tribe or community he may belong comes under the clutches of that Act. It is designed to see that those who habitually commit crimes and have two or three former convictions to their credit are not allowed to prey on society and commit their depredations. Such persons, it is provided in the Act, are to a certain extent looked after by the police. I may say for my friend's information that it is not for all their lives that they will be regarded as criminals. If they do not commit any crimes for five or six years they will be removed from the list. There are specific provisions. As a matter of fact no member of the society will for ever be dubbed as a criminal or offender. For certain purposes even the present provisions of the Criminal Code, such as section 565, provide that when a court convicts a person they can say that for five years his movements should be watched. There are other sections such as 400 and 401 under which wandering gangs and others with such propensities, if they commit such crimes they can be punished. The Act is for the whole society and for its protection. My friend is labouring under the impression that under the Act any tribe or group of persons will be considered criminal, because they are born in a particular tribe. That was the gravamen of his charge against the Bill but that has been wiped out totally. (Shri R. Velayudhan: It will be considered again.) There is no question of consideration. Today according to practice any member of a tribe, when he has advanced to a certain age will be registered and watched but if they are innocent and there are no convictions against them for a period they will not be watched by the police or subjected to any trouble. All these things were not mentioned in the House because everybody knew them. Today the *beaar* system is there. The criminal tribes are tyrannised by the subordinate police officials but all that will go away under the Act. It is quite true that the repeal of the Act will mean the emancipation of a very

large number of people from the tyranny of the police.

My friend gave a wrong impression to the House that the alternative provision will be something akin to the Criminal Tribes Act and will subject some of our countrymen to the tyranny of the police. It is a very good measure and we should not detract from the value of it. I congratulate the Minister again and beg of the House to pass the Bill with acclamation.

बाबू रामनारायण सिंह : सभानेत्री महोदया, मैं एक मिनट समय लूंगा। अधिक नहीं। मैं तो ऐसे अवसर के लिए लालायित रहता हूँ कि सरकार के कार्य पर हर्ष प्रकट करूँ और उन लोगों को बधाई दूँ। आज परमात्मा की कृपा से ऐसा अवसर मिला है। इस सरकार में भी मानवता की झलक देख पड़ी। मैं इस कार्य के लिए, इस क्रिमिनल ट्राइब ऐक्ट के हटा देने के लिए सिधवा साहब को बधाई देता हूँ और उनके द्वारा सरकार को भी बधाई देता हूँ। मैं यही मनाता हूँ कि इस सरकार में हमेशा इसी तरह की मानवता की झलक देख पड़े ताकि उनको भी हमेशा आशीर्वाद मिले और हमारा देश भी सुखी हो।

[Babu Ramnarayan Singh (Bihar): Madam, I propose to speak for a minute and no more. I have ever been eagerly awaiting an opportunity when I could express my pleasure on some action of the Government and offer them my congratulations. By the grace of God that opportunity has come at last and a ray of humanity has become manifest in the present Government's attitude. I congratulate my hon. friend Shri Sidhva and through him the Government for the repeal of the Criminal Tribes Act. I wish the Government will act on humanitarian grounds for all time to come and, thus, earn the blessings of their countrymen as also bring prosperity to this land.]

Mr. Chairman: Does the hon. Minister want to say anything?

Shri Sidhva: No, Madam. I thank hon. Members for the kind words said. I have no more answer to give—Pandit Thakur Das Bhargava has replied the points raised by the hon. Member.

Mr. Chairman: The question is: "That the Bill, as amended, be passed."

The motion was adopted.

INDIAN TARIFF (AMENDMENT) BILL

The Minister of Commerce and Industry (Shri Mahtab): I beg to move:

"That the Bill further to amend the Indian Tariff Act, 1934, be taken into consideration."

As the hon. Members will have observed from the statement of objects and reasons, the purpose of the Bill is to grant protection to certain industries and to continue protection to certain others on the recommendation of the Tariff Board. The facts in regard to most of these industries will be found in the notes which have been circulated to hon. Members. There are only three industries to which it is proposed to grant protection for the first time. They are all comparatively new industries and the Tariff Board have gone into their cases very thoroughly. As regards the remaining 14 industries, it is proposed that the protection given to them should continue. The period of protection of these industries expired on the 31st December, 1951. As it was not possible to introduce legislation before that date a notification was issued under section 3A of the Tariff Act the effect of which was to continue beyond 31st December, 1951 the rates of duty in force on that date in respect of these industries. In accordance with the provisions of that section a Bill is required to be introduced in Parliament, within fifteen days of its re-assembly, in order to continue the duties imposed under the notification. This Bill has been introduced in conformity with the provisions of that section.

Of the fourteen industries eight were granted protection only by conversion of the revenue duty in force prior to the grant of protection into a protective duty at the same rate. There are five industries in regard to which protection was initially granted by increasing the rate of duty in force prior to the grant of protection. All these facts have been given in the note which has been circulated to all the Members.

As the House is aware, the Tariff Board was replaced on 21st January, 1952 by the Tariff Commission. One of the functions of the Commission is to maintain a watch on the progress of the protected industries. If at any

[Shri Mahtab]

time the Commission finds that the quantum of protection accorded to any industry has for any reason become inadequate or excessive it will be open to it to recommend to Government that the duty be suitably modified. This could then be done by notification under section 4(1) of the Tariff Act.

I have nothing more to say. This is more or less a formal Bill which I hope the House will pass.

Shri Kamath (Madhya Pradesh): Without any discussion.

Mr. Chairman: Motion moved:

"That the Bill further to amend the Indian Tariff Act, 1934, be taken into consideration."

Shri A. C. Guha (West Bengal): The principle of this Bill was discussed in this House rather elaborately but I would like to draw the hon. Minister's attention to certain things which came up before this House in March, 1951. Some Members then pointed out to the Government the question of continuation of Imperial Preference in some form or other. According to the Indo-British Trade Agreement of 1939 we are bound even now to give some concessions to articles coming not only from the United Kingdom but also from any colonies under the United Kingdom. Even though the tariff is a protective tariff we are bound to give some preference to the United Kingdom and the Commonwealth countries.

This question of continuing the Imperial Preference was discussed by the Fiscal Commission as one of the terms of reference to it and the Fiscal Commission's recommendation was that since the Trade Agreement was enacted in 1939, which was also a continuation of the notorious Ottawa Pact, things have changed radically and there has been a great deal of diversion of India's export and import trade from the United Kingdom and the Commonwealth countries to other countries. The Commission recommended that in the light of the situation revealed the whole trade agreement should be reviewed and reconsidered.

After the attainment of independence and the partition of India the position of India in the business world has radically changed. Before partition and before the last war India was more or less an exporter of raw materials, but due to some amount of industrial development during the

war years and also due to the partition of the country India has ceased to be primarily an exporter of raw materials; she is now more or less an exporter of industrial goods and as such our trade relations with the United Kingdom have radically changed. Also, as regards imports we are now an importer of raw materials. I am not quoting the exact language of the Fiscal Commission, but these are the findings of the Commission. In view of all these things, the volume of both our export and import trade with the United Kingdom has decreased and there has been a good deal of diversion of our export and import trade to other countries, primarily to the United States. The United States of America is now one of India's largest markets and as everyone knows India, just as almost all other countries, is eager to have more of dollars. It is to our interest to foster our trade relations with and to increase our exports to the United States. Imperial preference may act as a hindrance to that.

In view of these changed circumstances, I should like to bring to the notice of the House the question whether it is desirable even now to continue the policy of Imperial Preference. On 6th February last year, in reply to a question it was stated in this House on behalf of the Minister of Commerce and Industry:

"The question of continuance or otherwise of the preferences granted under the United Kingdom Trade Agreement of 1939 has been examined by the Fiscal Commission who have recommended that negotiations with the United Kingdom and the colonies should be initiated for review of the whole position. The commission's recommendations are at present under examination."

Then again, during the course of discussion in the House last year, the Government took the stand that it was too early to come to any decision regarding the recommendations of the Fiscal Commission *vis-a-vis* the reconsideration and review of the Indo-British Trade Agreement. Although the Fiscal Commission's Report was submitted in July 1950, Government were of this view in March 1951. We are now nearing March 1952 and nearly two years have elapsed since the submission of the Report. We do not know if Government have taken any steps to review that Trade Agreement and re-adjust it to the changed conditions that have been brought before the House and the Government:

by the Fiscal Commission. I am sure that the Government must also have been aware of the trends of our trade relations and the changes already effected therein. We would like to have some light as to when the Government intend to review this Trade Agreement.

As far as I remember, while we renewed that Trade Agreement after partition, Pakistan did not renew it in spite of the fact that Pakistan still continued to be an exporter of raw materials. Does it mean that the conditions which made the Government of India to enter into that Indo-British Trade Agreement were applicable only to India and not to Pakistan? However, if my memory serves me aright, the fact remains that Pakistan did not enter into the Trade Agreement as India did in 1948-49 or 1950.

Now, coming to the items referred to in the Bill, there is one "Iron and steel hoops". In regard to this, we find from the note circulated to us that the protection was given in 1948 and it was conditional on the fulfilment of certain requirements by the industry which have not yet been fulfilled by the manufacturers. So even in 1952 we find that the industry has not been able to fulfil those required conditions. We do not know what those required conditions were; and in spite of the industry's failure to satisfy them we are asked by the hon. Minister to renew the protection. May I ask the hon. Minister to let us know, what those conditions were? Why the industry has failed to fulfil them? And when does the Government expect that the industry will be able to fulfil them? The protection has been there for the last four years, i.e. from 1948 to 1952, and if the conditions have not been fulfilled during this period, I do not see any purpose in continuing the protection to this industry.

With these few words, I would like to conclude my observations.

Shri Mahtab: With regard to the first point which the hon. Member has raised i.e., our Trade Agreement with Britain, I explained on the occasion referred to by the hon. Member himself that these Agreements are no longer a political question but they are merely economic questions which we deal with from day to day. It is true that the Fiscal Commission recommended that the Trade Agreements with Britain and other countries should be reviewed and the old Trade Agreements which had been entered into under certain political conditions should be changed. Therefore, it was suggested that negotiations should

be started in view of the changed political conditions.

Shri A. C. Guha: Not only political conditions, but also economic conditions to which the Fiscal Commission has invited attention.

Shri Mahtab: Yes, we have been reviewing the Trade Agreements now and then and if the hon. Members will remember, on many occasions questions regarding the bilateral and other Trade Agreements were put in this House and I do not think the House is not in possession of sufficient information with regard to them. I made it clear on the last occasion and I may make it clear now also that these Trade Agreements are considered on their own merits and if any particular Trade Agreement goes against India's commercial interests, either it is renewed or it is scrapped. Whatever steps are required to be taken are taken in India's commercial interest.

The change which has taken place is always before the Government and the public and all of us know the trend of the change which has taken place after partition. In view of that, a recent review was made. It showed that this particular Trade Agreement has not yet hit our commercial interests. As soon as it is found that our interests are affected, the position will be immediately reviewed and if necessary the Trade Agreement will be scrapped. There will be no objection to that. I personally looked into the working of the Agreement in order to see whether it works against our interests or not. The point here is that we have to convince ourselves that a particular Trade Agreement goes against our interests.

The hon. Member has rightly referred to Pakistan's attitude towards the Agreement. As the hon. Member knows, Pakistan and we are not on the same footing because of the currency question. We happen to belong to the sterling area and we have devalued our currency. Therefore, Pakistan and we are not on all fours and there is a considerable difference between us so far as the Trade Agreements are concerned. Apart from that, I may assure hon. Members that not a single minute will be lost in reviewing the position and either renewing the Agreements or, if necessary, scrapping them when at any time it is found that these Agreements are going against our commercial interests.

Regarding the other point to which the hon. Member has drawn attention, I may state the position as it is today. The iron and steel hoops industry was originally granted protection in 1948. It is more or less the private concern

[Shri Mahtab]

of J. K. Iron & Steel Co., Kanpur. These hoops are an important necessity for an industry mainly situated in Bengal and at that time the Government, on the recommendation of the Tariff Board, considered it desirable that the hoops should be manufactured somewhere near that industry. The grant of protection was therefore decided upon, but it was subjected to these conditions: (a) that the manufacturers should shift their factories to Asansol or Calcutta; and (b) that they should convert themselves into a public limited company. Unfortunately, these two conditions have not been fulfilled by the proprietor of the concern. Apart from the shifting of the site, there is the other point that they must convert themselves into a public limited company. If any protection is to be given to an industry, it must come under some law. Otherwise, Government will not have any control over that industry in any shape or form. I think these two conditions were salutary conditions which should be carried out by this industry. It is reported that the explanation of the industry is that it tried its utmost to find a suitable site in Calcutta or Asansol and because it could not find a suitable site, it could not fulfil these conditions. It is now reported that these people have found out a site and very soon they will shift the industry there and carry out the other condition also. Therefore, for the purpose of giving them protection, whenever these conditions are fulfilled, a notification will be issued.

I need not go into the cases of other industries which have been explained in the note. The note was circulated with a view to giving hon. Members the inside stories of these industries. Since the first point related to a question of policy, I explained the position and I repeat it here that these agreements are under constant review and whenever any agreement with any Government, including the British Government, comes in the way of our commercial and trade developments, they will be reviewed and adjusted and if necessary even scrapped.

Mr. Chairman: The question is:

"That the Bill further to amend the Indian Tariff Act, 1934, be taken into consideration."

The motion was adopted.

Clauses 1 and 2 were added to the Bill.

The Title and the Enacting Formula were added to the Bill.

Shri Mahtab: I beg to move:

"That the Bill be passed."

Mr. Chairman: The question is:

"That the Bill be passed."

The motion was adopted.

PRESIDENTIAL AND VICE-PRESIDENTIAL ELECTIONS BILL

The Minister of Home Affairs and Law (Dr. Katju): I beg to move:

"That the Bill to regulate certain matters relating to or connected with elections to the offices of President and Vice-President of India, as reported by the Select Committee be taken into consideration."

It is a matter of great personal gratification to me that the Select Committee has been able to present a unanimous report and as a result of its labours, the procedure has been very much simplified. I can also give straight off an assurance that, in so far as we can make it in the rules, the procedure will be further simplified and particularly I shall see to it that the nomination paper, if I may use that expression, is made almost fool-proof, so that in no event shall there ever be a rejection of a nomination paper on a pure technicality.

Now some amendments have been tabled. The House will no doubt take them into consideration. But I may say that we have ventured to follow, so far as we can, the language of the Representation of the People Act. The amendments really fall into three categories. There is some anxiety that a candidate nominated may die within twenty-four hours of the nomination and the date of the scrutiny. Fortunately no such instance has arisen during the last General Elections and the language as it stands in the Bill and as it has been adopted by the Select Committee really follows the language of Section 52 of the Representation of the People Act. I would venture to suggest that we follow that language. The scrutiny will be almost within twenty-four hours.

Shri J. R. Kapoor (Uttar Pradesh): Seventy-two hours.

Dr. Katju: So there is really no danger about it.

There are two other amendments. One is about the wrongful rejection or wrongful acceptance

of a nomination paper. I quite see that in the way in which it is put in the Bill it may give rise to some misapprehension. The amendment suggested will clarify the position. We were under the impression that every court will decide that an election has been materially affected by wrongful rejection or wrongful acceptance. But it might be made clear.

Thirdly, there is some amendment about what is known as recriminatory petition. That is provided for in section 97 of the Representation of the People Act. We were under the impression—I think the Select Committee also thought so—that the Supreme Court will provide for those matters in the rules which it will frame. But I have no objection to our making it clear in the Act itself that no candidate is to be declared successful merely on the ground that he has polled a larger number of votes, if that candidate has been guilty of wrongful practice.

I do not wish to take any more time. It is now an agreed measure so to say and I hope the House will pass it soon.

Mr. Chairman: Motion moved:

“That the Bill to regulate certain matters relating to or connected with elections to the offices of President and Vice-President of India, as reported by the Select Committee be taken into consideration.”

Shri J. R. Kapoor: I appreciate very much the report of the Select Committee which has simplified to a considerable extent the procedure of election of the President and the Vice-President. There are only two points with reference to which I have tabled amendments and with regard to which the hon. Minister in charge of the Bill has been pleased to make some reference.

My first amendment is that if after the nomination papers have been filed a candidate dies, then fresh nominations shall be called for. It was pointed out by the hon. Minister that there is already a provision in the Bill to the effect that if a candidate dies after the time of scrutiny then fresh nominations shall be called for. Between the time of nomination and scrutiny, according to his impression, there are barely twenty-four hours. I would draw his attention to sub-clause (b) of clause 4 of the Bill according to which the time that may intervene between nomination and scrutiny is as much as full three days. I do not know if even the hon. the Law Minister can claim that he can control the destiny of the candidates

during the intervening period of three days. Great though may be the power of the Government or the hon. Minister I wonder if even he can claim that they can control accidents for so long as full three days. I may in this connection mention that during the last elections one of our worthy Colleagues, Thakur Lal Singh died as a result of an accident which he met as he was going to present his nomination paper.

Dr. Katju: Was it before the filing of nomination paper or after it?

Shri J. R. Kapoor: But the accident can take place immediately after the nomination paper is filed. So far as the Representation of the People Act is concerned we have there a provision to the effect that fresh nominations will be called for only if death takes place after the scrutiny. So far as the election of the President and Vice-President is concerned the circumstances are different. In the case of ordinary elections to the House of the People or the Assembly a large number of candidates file their nomination papers, and it may be said that who-soever wants to stand will file his nomination paper. But here, when we have an election for such a high dignitary as the President or Vice-President, many candidates will not file nominations merely because of the fact that a prominent personality is already going to file his nomination paper.

12 Noon

To illustrate my point may I submit that these candidates would very likely be put up by various parties, and there may be two or three parties which may put up their candidates. One party would put up only one candidate, and I do not think any dummy candidate is going to be put up for these elections. If the nomination paper of the candidate of one such party is filed and unfortunately that candidate meets with an accident and dies, and if no fresh opportunity is provided to that party to put up another candidate, it will be in a very difficult predicament and that party will be absolutely out of the field. I therefore submit that in the interest of a proper election of the President and the Vice-President my suggestion should be accepted. Nothing is lost thereby and very much is to be gained. While enacting legislation we must make necessary provision to cover all possible contingencies. This is one point.

My second point is that provision must be made for recriminatory proceedings. Of course hon. Dr. Katju

[Shri J. R. Kapoor]

has been pleased to say that he is going to accept that amendment and I therefore need not say any thing further on that point. I would only like to submit that it is necessary to incorporate it because it cannot be left to the Supreme Court to make any such provision because I think according to the wording of clause 19 of the Bill it will not be open to the Supreme Court to make any such provision. The wording of clause 19 is very definite and specific to the effect that if a petitioner claims a seat and if the returned candidate's election is declared void, all that the Supreme Court will have to look into is whether the person claiming the seat has secured a majority of votes or not; the Supreme Court, according to clause 19, would be prevented from entering into the question as to whether the person claiming the seat was guilty of any corrupt practice as mentioned in this Bill. I therefore submit that to place things beyond any shadow of doubt it should be specifically provided in the Act itself that if a person who claims the seat is found guilty of any corrupt practice he shall not have the advantage of being declared elected. That is all that I have to submit.

Pandit Thakur Das Bhargava (Punjab): I congratulate the hon. Home Minister on his having secured such a beautiful report of the Select Committee which leaves nothing to be desired. If I intervene in the debate it is only to submit for his consideration two or three points in respect of which these amendments have been tabled.

In regard to the two points made by my hon. friend Mr. Jaspat Roy Kapoor I am in entire agreement with him that in these two respects the Bill should be amended. In so far as my amendment is concerned I have to submit one word for the consideration of the hon. the Home Minister. I agree that so far as clause 18 is concerned, (b) (i), (b) (iii) and (b) (iv) are certainly matters which require determination by the court if the result of the election has been materially affected. It is quite true, because I can understand that so far as (i) is concerned the candidate is not to blame at all. Any other person may have without his knowledge committed any of these irregularities. Similarly, with regard to (iii) if a vote has been wrongly received or refused, well, there might be a difference of more than one vote—twenty or thirty votes—and one vote will not matter. Similarly, with regard to (iv) the non-compliance with the Act or rules etc. are all such matters in respect of which it can be

said that the result might have been materially affected. But in regard to (ii) this need not be predicated before the election is declared void, because when the nomination paper of a person which is not entitled to be accepted is received there is such an injury that no material effect on the result of the election need be proved. I can understand and I congratulate the hon. the Home Minister when he said that he will make nomination quite fool-proof so that on a mere technical ground no nomination will be rejected. I welcome that statement so far as it goes. But it may happen that so far as the qualifications or the disqualifications of a candidate are concerned they may be such that in respect of them some mistake might have been made by the returning officer in so far as nomination is concerned. Nomination is a matter of very vital concern. Suppose a person is entitled and he is not allowed to contest. Such an injury is inflicted on that person that it cannot be said that he should prove that there has been any material effect upon the elections. By itself the result is so clear that it should be regarded as one of the grounds on which the Supreme Court should declare the election void. Suppose a person is wrongly allowed to contest—he might be the best of men—he might be liable under the disqualification, and the returning officer might not accept it as a good ground. Therefore, when you allow the election petition to be made on this ground you should say as a matter of fact that the result need not be materially affected. I know we made a mistake so far as the Representation of the People Act was concerned, and we have the words there. But there also the wording will be changed in course of time. As a matter of fact it is entirely wrong on principle to link the improper acceptance or rejection of nomination with its materially affecting the result. Therefore, so far as that is concerned this amendment may be accepted. With these words I support the measure.

Dr. Katju: I thought, I had indicated that I was quite in sympathy with the amendments tabled by my hon. friend Pandit Thakur Das Bhargava and also one of the amendments tabled by my hon. friend Mr. Jaspat Roy Kapoor. So far as the interval between the nomination and the scrutiny is concerned let us leave it to providence and let us not.....

Dr. Tek Chand (Punjab): Why leave it to providence? Why not accept the amendment? It is only a small change and it will make the whole thing quite clear.

Dr. Katju: There is no harm.

Dr. Tek Chand: Then accept it.

Dr. Katju: I will accept it if you like. I will take your advice. But I want to point out to the House what will happen—not in this election but in future elections. There may be a danger of some people actually nominating dying men and thereby there may be a deadlock always. You must consider this point. People may die within forty-eight hours. Nobody can say. I may die just now! But the other danger is that people who are anxious not to have a President may go on nominating dying men.....

Dr. Pattabhi (Madras): They must discover them!

Pandit Thakur Das Bhargava: He may recover!

Dr. Katju: ...almost corpses. If the House is satisfied that there is no such danger and it is all imaginary.....

Shri J. R. Kapoor: The electors here will be responsible elected Members of the Assembly or Parliament and not frivolous people.

Dr. Katju: I am a little wiser in these matters than yourself. Therefore I suggest you leave it as it is. But if my hon. friend Dr. Bakshi Tek Chand says it should be accepted, I am perfectly willing to do so.

Dr. Tek Chand: Kindly do it.

Dr. Katju: I take your judicial advice.

Mr. Chairman: The question is:

"That the Bill to regulate certain matters relating to or connected with elections to the offices of President and Vice-President of India, as reported by the Select Committee, be taken into consideration."

The motion was adopted.

Clauses 2 to 5 were added to the Bill.

Clause 6.—(Withdrawal of candidature)

Shri J. R. Kapoor: I beg to move:

In page 3, line 6, after "seconder" insert "in person".

This is only to make it clear as to how the withdrawal is to be made. If it is to be made by the proposer or the seconder—just as we have provided in the case of the candidate himself, i.e., if he wants to withdraw, he must go there personally—we must also make it clear that the proposer and seconder if they are going with the

withdrawal form, they must go there personally and not send it by post.

Dr. Katju: I think it is unessential. Probably it is implied. Therefore I ask him to withdraw it.

Shri J. R. Kapoor: It need not be put to vote then.

Mr. Chairman: The question is:

"That clause 6 stand part of the Bill."

The motion was adopted.

Clause 6 was added to the Bill.

Clause 7.—(Death of candidate before poll)

Shri J. R. Kapoor: I beg to move:

In page 3, lines 17 to 19, for "If a candidate who has been duly nominated under this Act dies after the date fixed for the scrutiny of nominations" substitute:

"If a candidate whose nomination has been made and is found to be in order on scrutiny dies after the time fixed for nomination."

I need not say anything further on the subject because it is going to be accepted now by the hon. Law Minister I need on this occasion only thank not so much the hon. the Law Minister but my hon. colleague Dr. Tek Chand on whose support it is going to be accepted.

Dr. Katju: I have appeared before Dr. Tek Chand in another capacity and I have always followed him in his judicial advice.

Shri Venkataraman (Madras): I want to say something which may go against the acceptance of this amendment. The words which my hon. friend, Mr. Kapoor wants to incorporate are in place of the following: "If a candidate who has been duly nominated under this Act dies after the date fixed for the scrutiny of nominations". What Mr. Kapoor wants is that the moment a person has been nominated and he dies before the date fixed for the scrutiny, then there must be another opportunity for some other person to file the nomination paper. If he dies after the scrutiny is over, then he will be protected by the clause as it stands. The clause now states "If a candidate who has been duly nominated under this Act dies after the date fixed for the scrutiny." The language of Mr. Kapoor is the same as it is in the present one. I request you to kindly look into the language of the two. The same words are here 'after

[Shri Venkataraman]

the date fixed for the scrutiny'. It must be before the time fixed, for the scrutiny of nomination.

Shri J. R. Kapoor: My amendment is perfectly clear and the substituted words should be "If a candidate whose nomination has been made and is found to be in order on scrutiny dies after the time fixed for nomination." There seems to have been some confusion created in the mind of my hon. friend, if I may say so with due respect and this is because of the use of the words "is found to be in order on scrutiny". The object is that if a person dies after the nomination, then the scrutiny will take place and if on scrutiny it is found that the nomination of the candidate who is dead was in order then and then alone fresh nomination should be called for. Otherwise, even if he were alive and on scrutiny his nomination were found invalid, there would be no occasion for fresh nomination.

Dr. Katju: That puts it very clearly.

Mr. Chairman: The question is:

In page 3, lines 17 to 19,—for "If a candidate who has been duly nominated under this Act dies after the date fixed for the scrutiny of nominations" substitute:

"If a candidate whose nomination has been made and is found to be in order on scrutiny dies after the time fixed for nomination."

The motion was adopted.

Mr. Chairman: The question is:

"That clause 7, as amended, stand part of the Bill."

The motion was adopted.

Clause 7, as amended, was added to the Bill.

Clauses 8 to 9 were added to the Bill.

Clauses 10 to 17

Shri Barman (West Bengal): I would like to say a few words on clauses 10, 11 and 12. All these amendments that have been sent today are very formal but I still want the hon. Minister to consider them.

In Clause 10, I suggest the deletion of the words "at every election where a poll is taken." To my mind these words are absolutely unnecessary. It is, of course, necessary in the case of clause 9 where the votes are taken.

Dr. Katju: I think it is purely formal. The words ought to stand.

Shri Barman: My submission is that after the votes are taken, then the counting automatically has got to be done. So, it is not contingent upon any other circumstance. My submission is that whereas these words are very essential in clause 9, it is absolutely unnecessary or redundant in clause 10. As soon as the votes are taken the counting has to be made. So the words "At every election where a poll is taken" need not be repeated and they are absolutely redundant.

Then I come to clause 11, which reads as follows:

"When the counting of the votes has been completed, the Returning Officer shall forthwith declare the result of the election in the manner provided by this Act or the rules made thereunder."

My submission is that there is no other provision made in this Act as regards the declaration of results. How do these words fit in this Act. This Act at no other part makes any provision for the declaration of results. This is meaningless. The purpose will be served if the existing words "provided by this Act or the rules made thereunder" are substituted by the words "provided by rules made under this Act."

Then in clause 12 I submit that instead of saying "the Returning Officer shall report the result to the Central Government and the Election Commission" the word 'to' should be inserted after "Central Government" and I think that will make the meaning more clear.

Dr. Katju: I submit that the objection which has been taken to the words in clauses 10 and 11 are really not well-founded. That is the language which is necessary in the context and so far as the reference to the Act is concerned, it is always a saving clause which is inserted to provide for all contingencies and so far as clause 12 is concerned, I am not an authority in English but I should have thought that the Returning Officer shall report the result to the Central Government and the Election Commissioner. It makes it quite clear that it applies to both. Therefore, I submit that these three amendments should not be accepted.

Mr. Chairman: The question is:

"That clauses 10 to 17 stand part of the Bill."

The motion was adopted.

Clauses 10 to 17 were added to the Bill.

Clause 18.—(Grounds for declaring elections void)

Amendment made:

In page 5, omit lines 47 and 48.

—[*Pandit Thakur Das Bhargava*]

Further amendment made:

In page 6, (i) line 3, after "Act" add "or", (ii) after line 3, insert:

"(c) that the nomination of any candidate has been wrongly rejected or the nomination of the successful candidate or of any other candidate who has not withdrawn his candidature has been wrongly accepted;"

—[*Pandit Thakur Das Bhargava*]

Mr. Chairman: The question is:

"That clause 18, as amended, stand part of the Bill."

The motion was adopted.

Clause 18, as amended, was added to the Bill.

Clause 19.—(Grounds for declaration etc.)

Amendment made:

In page 6, after line 18, add:

"Provided that the petitioner or such other candidate shall not be declared to be duly elected if it is proved that the election of such candidate would have been void if he had been the returned candidate and a petition had been presented calling in question his election."

—[*Shri J. R. Kapoor*]

Mr. Chairman: The question is:

"That clause 19, as amended, stand part of the Bill."

The motion was adopted.

Clause 19, as amended, was added to the Bill.

Clauses 20 to 23 were added to the Bill.

Clause 1 was added to the Bill.

The Title and the Enacting Formula were added to the Bill.

Dr. Katju: I beg to move:

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

Mr. Chairman: The question is:

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

The motion was adopted.

DELHI SPECIAL POLICE ESTABLISHMENT (AMENDMENT) BILL.

The Minister of Home Affairs and Law (Dr. Katju): I beg to move:

"That the Bill further to amend the Delhi Special Police Establishment Act, 1946, be taken into consideration."

This is a non-contentious measure. The reason for the introduction of the measure is set out in the Statement of Objects and Reasons. The main purpose is to extend the operational jurisdiction of the Delhi Special Police Establishment. We want to extend it by amendment of the existing Act to corporations and other bodies set up and financed by the Government of India and departments of the administrations in Centrally Administered States. The Act as it stands is limited to the Delhi State. We want to extend it to all the Centrally Administered States known as Part C States. I do not want to take up the time of the House unnecessarily. I hope that the motion will be accepted.

Mr. Chairman: The question is:

"That the Bill further to amend the Delhi Special Police Establishment Act, 1946, be taken into consideration."

The motion was adopted.

Clauses 1 to 6 were added to the Bill.

The Title and the Enacting Formula were added to the Bill.

Dr. Katju: I beg to move:

"That the Bill be passed."

Mr. Chairman: The question is:

"That the Bill be passed."

The motion was adopted.

CONTEMPT OF COURTS BILL.

The Minister of Home Affairs and Law (Dr. Katju): I beg to move:

"That the Bill to define and limit the powers of certain courts in punishing contempts of courts be taken into consideration."

Here again, the point raised is a short one and to lawyers it has been of great interest for many many years. But, as set out in the Statement of Objects and Reasons, some difficulty is felt about punishment for contempt of courts. High Courts are courts of record and occupy very deservedly the highest place in our estimation. It has

[Dr. Katju]

happened that contempt of a High Court is committed by people living outside the jurisdiction, and nothing can be done to check such abuses. The object of this Bill is to confer power upon the High Court to punish contempts by people whether living within its jurisdiction or within the Indian Union anywhere, outside their territorial jurisdiction, and also for their contempt of courts subordinate to it. That is the object of the Bill. I hope it will commend itself to the House.

Mr. Chairman: The question is:

"That the Bill to define and limit the powers of certain courts in punishing contempts of courts, be taken into consideration."

The motion was adopted.

Mr. Chairman: There are no amendments to this Bill. I will put clauses 1 to 6 and the schedule.

Pandit Thakur Das Bhargava (Punjab): I should think that if the Chair will kindly put clauses 1 to 4 first and then the contentious clause about jurisdiction, it would be better.

Clause 1 to 4 were added to the Bill.

Clause 5.—(Power of High Court etc.)

Pandit Thakur Das Bhargava: I have not given notice of any amendment. I am myself wavering in my mind. I only wanted to hear the hon. Minister and Dr. Tek Chand on this question and so far as voting is concerned, I shall be guided by their advice.

I have not been able to make up my mind whether I should agree to support clause 5. Clause 5 speaks of extra-territorial jurisdiction. It is, as a matter of fact, a new clause. While I also hold the High Courts of our country in great esteem and I am very anxious that their reputation should remain very high, I feel, when there is a Supreme Court in the country sitting in Delhi, there is no justification for this provision that the High Courts should have extra-territorial jurisdiction. Ordinarily I should think that contempt of any court is undesirable. So far as the High Court is concerned, contempt of a High Court is most undesirable. All the same, I can conceive of cases in which Governments can go wrong and High Courts can go wrong. If a person goes outside the jurisdiction of the High Court and publishes something which is in the public interest, I do not see why it should not be allowed. All the world over, all courts, all authorities including the highest in the land, including the Prime Minister, are

open to criticism. It is criticism which keeps them straight. Whoever he be, a despotic monarch or a democratic autocrat—you may say that democracy and an autocrat are contradiction in terms; but I can conceive of persons who can answer this description—is kept straight if there is opposition. Even in this House, when the Elections were going on, we were hearing our leaders say that there should be a strong opposition. Human nature being what it is, this human nature has got to be kept straight. Therefore the point to be considered now is whether we should agree to confer the extra territorial jurisdiction on the high court. The high court will, as a matter of fact, be judge in its own cause and that is a rare thing in Law—a judge to be the judge on his own cause. If we had not given this jurisdiction so far, we have been justified. It is an exceptional measure that we are passing and I am therefore, wavering in my own mind whether to agree to this extension of jurisdiction or not. I would very much like to hear the hon. Home Minister on this question and have his advice which weighs very much with me and also Dr. Tek Chand and such other hon. Members who have to express some views on this point. I would like to have the benefit of hearing them before casting my vote.

Dr. Tek Chand (Punjab): I have been specially asked by my hon. friend Pandit Thakur Das Bhargava just now to speak and I shall offer a few remarks.

There is something in what Pandit Thakur Das Bhargava says; but it must be borne in mind that if there is contempt of court within the territorial limits of a High Court, it is the high court which has jurisdiction to deal with the matter. The High Court is both the prosecutor and the Judge. If the power has to be retained there is no reason why it should not be exercised extra-territorially. Supposing an article is published in Bombay, which amounts to gross contempt of the High Court of Madras, at present there is no remedy. This Bill, if passed, will provide a remedy and the High Court of Madras can then issue a process and call upon the person concerned who lives in Bombay and who has published the article, in Bombay, to appear in Madras and show cause why proceedings should not be taken against him.

Pandit Thakur Das Bhargava: The matter can come up in the Supreme Court. Why give the jurisdiction to the High Court?

Dr. Tek Chand: Does my hon. friend want to go straight to the Supreme Court?

Pandit Thakur Das Bhargava: In such a case where there is extra-territorial jurisdiction involved, the matter will be decided by the Supreme Court.

Dr. Tek Chand: My hon. friend concedes that there must be provision to punish a person who has committed contempt outside a particular High Court's jurisdiction. He admits that at present there is a lacuna in the Law, and there must be some provision made. The jurisdiction should be either in the High Court against which the contempt of court is committed or in the Supreme Court. We have to choose between these two and some appropriate remedy must be provided. It is quite clear that the present position is quite unsatisfactory. If something is published from outside which is contemptuous of the court of Delhi, that court or the High Court under which the Delhi court is working has no jurisdiction. Obviously, this is a most unsatisfactory position and some remedy has to be found. The only question is, are you to go straight to the Supreme Court or to the High Court concerned? Considering both the alternatives, I am of the opinion that what is proposed in the Bill is the better course. If you go to the Supreme Court, it will be on the original side of that Court and there will be more expense and delay. Further if you give jurisdiction to the High Court as is proposed in the Bill, the aggrieved party will have a right of appeal to the Supreme Court. The matter can thus come up before the highest court also. It is proper that the court of which the contempt is committed should, as in every other case, have jurisdiction to try the matter. Therefore, though there is something to be said for what Pandit Thakur Das Bhargava has said my opinion is that considering everything, the Bill, as introduced, should be supported.

Dr. Katju: I am gratified to hear what my hon. friend Dr. Tek Chand has said because the point raised by my hon. friend Pandit Thakur Das is wrong to have this jurisdiction and Bhargava is really of fundamental importance. There is no question of judges being complainants in their own cause. If the position is that if it is to be taken away from that court, then it is better to take it away altogether. I cannot possibly see any reason why it should be justifiable, for instance for the judges of the Allahabad High Court—that is the court I am more familiar—to be able to punish six crores and 30 lakhs of

people living in their jurisdiction on contempt proceedings, but that if the contempt is committed, say across the border from Ghaziabad or Okhla in Delhi, then the Allahabad High Court is not to be trusted. The matter really stands on a different basis. The basis is that the high courts occupy a very very important place in our national and political set-up and to compare the judges of high courts or of the Supreme Court or any judicial officer, with executive officers from the Ministers downwards or with politicians and so on, is not correct. I am talking almost of platitudes; but the court is the palladium of liberty and it should inspire confidence and it does inspire confidence. We must maintain its dignity. Judges cannot defend themselves like Ministers or like other politicians or Members of this House. They cannot indulge in recriminations and I have authority to say that judges are most reluctant to take action under the contempt jurisdiction. It is only in flagrant cases that they do so. But they must have the power to punish the contempt and I do not like this idea of the Supreme Court being called in. I do not like judges of High Courts in India should go elsewhere and appear as complainants or petitioners in the Supreme Court and say, "Do please protect us, our honour has been assailed". So far as instances are concerned we know of many instances of people of standing committing gross contempt. And we know that we have got a press which we all honour greatly and it has an all-India jurisdiction and people of all-India importance should be cautious so far as judicial matters are concerned, or so far as High Courts are concerned. They should be careful. And I do not want papers published in one jurisdiction should have less liberty than papers published outside that jurisdiction. Papers published outside the jurisdiction should have even a greater sense of responsibility about these matters. Therefore I am compelled to differ from my hon. friend Pandit Bhargava.

Pandit Thakur Das Bhargava: I only wanted advice. I am not opposing any thing.

Dr. Katju: Then my advise is that the hon. Member should withdraw his opposition.

Pandit Thakur Das Bhargava: There is no opposition.

Mr. Chairman: The question is:

"That clause 5 stand part of the Bill."

The motion was adopted.

Clause 5 was added to the Bill.

Clause 6 was added to the Bill.

The Schedule was added to the Bill.

Clause 1 was added to the Bill.

The Title and the Enacting Formula were added to the Bill.

Dr. Katju: I beg to move:

"That the Bill be passed."

Mr. Chairman: Motion moved:

"That the Bill be passed."

Shri J. R. Kapoor (Uttar Pradesh): On this occasion, though it is a belated one, I have only one submission to make for the consideration of the hon. Law Minister and it is that useful and necessary as this measure is, it might as well have been considered seriously why it should not be extended to the State of Jammu and Kashmir. Of course, I realise that it cannot straight-away be applied to that State, but the necessary steps might have been taken to consult the government of that State and their consent obtained so that the very salutary provisions of this Bill might be extended to that State also. It will be a very awkward and delicate position if a person living outside the State of Jammu and Kashmir is guilty of contempt of a court inside that State and *vice versa*.

Mr. Chairman: This question of extension of an Act to the State of Jammu and Kashmir has, I believe, been raised in connection with many Bills in the past and it was found that it was not at all possible to extend them.

Shri J. R. Kapoor: That is exactly my reason for bringing it once again to the notice of the House. Though it has been brought to the notice of the Government so often no steps have yet been taken to meet the demand of the House. Once our suggestion is accepted by Government and the necessary steps are taken, there will be no further cause to refer to the matter. But so long as nothing is done it will have to be repeated in the House.

Let us take the case in the reverse order. Persons living in Kashmir may go on committing contempt against every High Court in India and yet the High Courts will have no jurisdiction. (*Interruption*). I realise it is a wider question but if occasion presents where the consent of the Jammu and Kashmir Government can

be easily obtained that opportunity be availed of to extend our Act there.

Dr. Katju: It is really unnecessary to reply to this, because as you, Madam, have been pleased to point this exception has occurred in a large number of Bills and it raises high questions. Of course we will bear in mind what the hon. Member has said.

Mr. Chairman: The question is:

"That the Bill be passed."

The motion was adopted.

CODE OF CRIMINAL PROCEDURE (AMENDMENT) BILL

The Minister of Home Affairs and Law (Dr. Katju): I beg to move:

"That the Bill further to amend the Code of Criminal Procedure, 1898, be taken into consideration."

I should like to begin by congratulating the House, because this is a Bill which really in substance originated on the floor of this House. Last year a Bill was under discussion which sought to amend section 527 of the Criminal Procedure Code. Our lawyer friends are aware of the contents of that section. As it stood many years ago it gave the Governor General in Council the power to transfer any criminal case from one part of India to another, a case pending in one High Court or one province to another High Court or another province. In those days the highest judicial authority was in London. I do not know whether it occurred to the executive authority or it did not, but obviously the most convenient course was to invest this power in the Governor General. In 1935 when the Government of India Act was substantially altered, then the phraseology was altered and the procedure was a little cumbersome. The power was given to the provincial government to transfer, of its own accord a case pending within its province to another province and of course such an action could not be taken without the concurrence of the other State to which it was proposed that the case should go. This was, as I said, a very cumbersome procedure and sometimes impracticable.

So last year a Bill was brought before the House by my hon. predecessor and it was thought that the old provision should be restored and power should be given to the Central Government. When that Bill was under discussion amendments were moved

Bill

here, namely now that the Supreme Court has been established the power really should be given to the Supreme Court and very properly so, because it was really a judicial or quasi-judicial matter whether the transfer of a pending case was or was not desirable in the interests of justice. My predecessor was struck by the force of the argument advanced but thought that it would not be proper to accept the amendment straightaway, unless he had consulted the Supreme Court in this matter. The result was that though he wanted to withdraw the Bill brought by him owing to some difficulty in the procedure of the House, it had to be actually rejected by the House. Now we are proceeding upon that suggestion made here. We had proceeded to consult the Supreme Court and they have agreed. We have consulted the State Governments and practically all of them have agreed and this Bill is now before you in the shape.....

Mr. Chairman: Was there any State which had not agreed?

Dr. Katju: One State but my memory is not very strong as to which it is. (*An Hon. Member:* Was it not Mysore?)

Shri Kamath (Madhya Pradesh): It is rather invidious to single it out. So no names!

Dr. Katju: One State suggested that the power should be simultaneous and I notice that some amendments have been tabled that the power should be given simultaneously both to the Central Government and also to the Supreme Court. It seems to me to be, with great respect, a very impracticable suggestion. The Supreme Court will proceed upon a judicial basis. The idea, I imagine, is that the Central Government always proceeds upon an extra-judicial basis. To bracket together the Executive and the judicial authority will be a very incongruous affair. I suggest that the Bill as presented to the House really removes the difficulty and should inspire confidence.

Some amendments indicate that there is anxiety that there might be frivolous applications made and there is a suggestion that before anybody makes an application he should receive a certificate from the Attorney General that his application is a fit and proper one worth the consideration of the Supreme Court. That also leads to multiplicity of procedure. My experience is that in these matters very likely in three months the Supreme Court will be able to indicate quite

definitely to all citizens of India and members of the legal profession the limits within which they will entertain the applications and the principles on which they will proceed. Therefore I would request the House to leave the Bill as it is.

Then the House would have noticed that power is given to any party interested, which means the State Government where the case is pending as well as private parties. Similarly, in the general interest we have also given power to the Attorney General. Whenever the Central Government thinks it proper that a case should go from one part of India to another or one State to another they should be able to take adequate steps to move the Supreme Court to pass the necessary order and inasmuch as the Supreme Court will pass a judicial order there is now no question of concurrence about this matter. Every part of India shall have to obey an order passed by the Supreme Court. The Supreme Court can order whether a case should go and I imagine they may also point out the State from which the case should go.

So far as affidavits are concerned that is a minor thing. We have used the words Attorney General for Advocate General. We thought that the word Advocate General was only applicable to States and no such officer as Advocate General is in the Central Government. It is a verbal change. I therefore respectfully ask the House to consider the Bill and pass it as it stands.

Mr. Chairman: Motion moved:

"That the Bill further to amend the Code of Criminal Procedure, 1898, be taken into consideration."

Pandit Thakur Das Bhargava (Punjab): I welcome the Bill, because it gives effect to the considered opinion of this House. On another occasion this point was considered by the House. I understood that there was one Bill before the House which had the object of assimilating the procedure of Part A and Part B States. I think that was the Bill on which this question cropped up and our Deputy-Speaker took up the point and requested the hon. Home Minister to go into this question. We met in the hon. Home Minister's room and discussed it and he practically agreed with us. The credit goes to my friend, Mr. Venkataraman who opposed the provision then existing in the Bill tooth and nail: he was clearly of opinion that the Supreme Court should be given this power of transfer. I also

[Pandit Thakur Das Bhargava]

happened to speak at that moment and I too agreed with that view and submitted that the Supreme Court is the only court to which this power could be given.

I have given notice of certain amendments the aim of which is that the Central Government also may be given concurrent power. These amendments were given at the suggestion of a gentleman whose opinion I value, but my own view was against them and when I considered the speeches then made I thought that my own personal view was indeed better and that I should stick to my own view. I have therefore accepted the advice of the hon. Home Minister and I do not propose to move the amendment which seeks to give the power to the Central Government also. As a matter of fact, I thought this point was one worth taking into consideration. In clause 2 of the Bill, sub-section (3) of section 527 says:

"The court to which any case or appeal is transferred under this section shall deal with the same as if it had been originally instituted in, or presented to, such court."

The present rule is that the executive is given the authority to present the case in any court provided the court has got jurisdiction. In all cases it is the District Magistrate who initiates the prosecution and he is competent to send any case to any court he chooses provided it has got jurisdiction. If that is so, if this principle is correct, then the executive should have the right to say that the case should be taken as if it had been newly instituted or presented to such court. My submission is that this view contained in sub-section (3) is really not correct. When an application is made and as soon as the case comes before the court it is the court which is seized of the case and not the executive. Therefore, consistently with the provisions which we are accepting in sub-section (3) we ought to see that the right rule is adopted in regard to the further procedure of the case also. When an application is made the Supreme Court shall ultimately decide whether the case is to be transferred or not, and the Supreme court is to decide where the case is to be sent. But so far as the question of further procedure is concerned I would very humbly submit for the consideration of the hon. Home Minister my amendment No. 4 which says that when the case is transferred it should be within the power of the

court to order that the case be taken from the stage from which it has been transferred or *de novo*. The court should be able to say whether it proposes to deal with the case *de novo* or from the stage from which it was transferred. But all the same I do not want to deny the accused the benefit of the transfer. It is at his instance that the transfer is made. Certain proceedings which give grievance to him may be such that he does not want to accept a *de novo* proceeding again. Therefore, I want to give an absolute right to the accused: if the accused wants that the case should be proceeded with *de novo* then it should be. Subject to this the court should be empowered to proceed further in the case; if the accused agrees there is no reason why the case should be tried *de novo* and the proceedings prolonged.

I understood the hon. Minister to say that the question of stage also will be decided by the Supreme Court. I am very sorry I cannot agree with him. In my humble opinion the Supreme Court is invested with jurisdiction to see whether the case is to be transferred or not. If the case is transferred to a particular court then in that court the accused has first to say whether he wants it tried *de novo* or not because certain proceedings have already taken place against him in respect of which he has got a grievance and for which he went to court asking that the case should be tried in some other court. Therefore he has the first right to ask for a *de novo* trial, but at the same time if the court and the accused and everybody agrees that the case should be tried from a particular stage at which it was transferred, there is no reason why the case should be prolonged by *de novo* proceedings and the court should not try the case from that stage. On the other hand, it may so happen, as in a criminal case where the impression produced on the court by the witnesses is of first rate importance, that the court may think the case should be tried *de novo* and then the court should have the power to do that way just as if the accused desires that it should be tried *de novo* he should have the right to get it tried *de novo*. Subject to this, I consider the provision contained in sub-section (3) should be amended to that extent and it should be within the power of the accused to demand a *de novo* trial.

Mr. Chairman: May I know from the hon. Member whether the Supreme Court has not got the inherent powers

of jurisdiction to call for any records at any stage?

Pandit Thakur Das Bhargava: I have not been able to understand you. The point is the question of transfer. We have got section 521 here. Previously the rule was that the Governor-General in Council was invested with the power of transferring cases from one High Court to another. Now, on account of a provision in the Act of 1935 we had to change the rule and it was the Government of the State concerned which got that power with the agreement of the other State. Now when we want to change the rule and give the power to the Supreme Court, though the hon. Home Minister was agreeable, objections were raised and it was said that we could not do it. But now when all the States have agreed, when the High Courts have agreed, there is no reason why we should not enact it. In this connection may I refer to a Mysore case, the Chief Judge poisoning case, in which the Mysore Government did not agree to transfer the case. The accused made representations and ultimately though the case was not transferred a District Judge of another State was placed there. I do not know what would happen to that case if that Judge sentences the accused or discharges or acquits him. I understand if there is a sentence on the accused the appeal will lie to the High Court. In the other alternative also, namely of acquittal, the other party may go to the High Court.....

Dr. Katju: May I intervene and say all this is irrelevant? Because even if a case is transferred under this newly amended Act to a different State, naturally the appeal will lie to the High Court of that State.

Pandit Thakur Das Bhargava: That is exactly my submission, and I welcome the change. But when it was asked that in that State the case ought not to be tried, I am rather surprised that the Government of India agreed that the case be made over to a District Judge of another State. That is a typical case and this Bill is a remedy for all such evils. I am not saying that this Bill ought not to be accepted—I am saying it is the right thing we are doing. Judging from the circumstances of the case and the proceedings— I had the occasion to go through some part of the evidence of the case—I am submitting that this Bill is the right remedy for these evils. Otherwise a person can be harassed and persecuted in any manner in any State. This Bill gives a right to the

individual to see that justice is done. This is the right sort of a Bill and I would welcome it. Only I would request the hon. Home Minister to consider the amendment that I have given notice of. It is based on the experience of judges and is a healthy provision.

Shri Venkataraman (Madras): I am glad that the Bill has come in the form in which it has been presented to the House. I was not a little surprised by the number of amendments given notice of by my friend, Pandit Thakur Das Bhargava that the Central Government should also have concurrent powers, but now that he has given up the idea of moving them I am very glad that we are all able to support this Bill as it stands. But there is one point which I would like to enquire of the hon. Minister. There is a change in the language of section 527 as brought forward, from the language as it exists. Whereas in section 527 it says that a case may be transferred from one High Court to another where it will promote the ends of justice or tend to the general convenience of parties and witnesses, under the Bill as presented to us the Supreme Court can transfer the case only if it is expedient for promoting the ends of justice. That is to say, if it will tend to the general convenience of witnesses and parties apart from promoting the ends of justice, the Supreme Court will not have the power to transfer the case from one High court to another under the new section.

“ We know of the interpretation of the courts. Where a particular language exists in a previous enactment and that language is omitted in a subsequent enactment, the law presumes that the legislature intended that that language should not be in the legislation, that is, that the legislature has voted against the continuance of that language. If in the present section 527 of the Criminal Procedure Code there is a provision that where it will suit the convenience of the parties or witnesses a case can be transferred from one High Court to another, and if in the new Bill that is before the House we drop those words, then the Supreme Court will not have the power at all. Please compare sub-clause (1) of section 521 with the corresponding sub-clause in old section 527. In the present case the provision is as follows:

“Whenever it is made to appear to the Supreme Court that an order of this kind is expedient for the ends of justice, then it may direct any particular case or appeal to be transferred...”

[Shri Venkataraman]

whereas the language in the old section was...

Mr. Chairman: The hon. Member's idea is to import the language of the previous section into this. Does the hon. Minister accept that suggestion?

Dr. Katju: We have carefully thought over this matter and I was under the impression that the words "ends of justice" had the widest possible meaning and would cover every case. If we accept the proposed amendment, it would really do harm and would be a little mischievous. The present provision, instead of restricting the Supreme Court's jurisdiction, would confer rather enlarged powers upon it.

Shri Venkataraman: What I want to say is this. If the legislature which passed the Criminal Procedure Code thought that the ends of justice would cover cases of inconvenience to parties and witnesses, why should we assume that it was stupid?

Dr. Katju: Previously they never dealt with judicial courts. It only dealt with the Central Government or the Governor-General-in-Council, to whom nobody had any access.

Shri Venkataraman: Is it not one of the interpretations by the courts that when a certain phrase or expression is dropped in a subsequent legislation, the court will think that the language omitted was deliberately omitted. According to this stand, the court will interpret that the legislature intended that simply for the convenience of parties or witnesses a case need not be transferred. Is that not so?

Dr. Pattabhi (Madras): No.

Shri Venkataraman: I am surprised. I would have taken the "no" from any lawyer, but not from the ex-President of the Indian National Congress.

Dr. Pattabhi: Times have changed.

Shri R. Velayudhan (Travancore-Cochin): He is a better lawyer than many other lawyers.

Mr. Chairman: I think what the hon. Member is trying to do is to draw the attention of the hon. Minister to the fact that certain difficulties are likely to arise on account of interpretation by the courts. He is pointing out that if a language is omitted in a subsequent Act, which it was not the intention to do, then difficulties would arise.

Shri Venkataraman: I am very much obliged to you for making it clear. If a particular language exists in a previous legislation and it is omitted in a subsequent legislation, the interpretation of the law will be that the legislature intended that those words should be blotted out. Applying that dictum to the present case, it would mean that the legislature's intention is that no transfer should be allowed for the sake of the convenience of the parties and witnesses. I ask this direct question: is it or is it not the intention of the Government that in a case where the convenience of the parties requires a transfer the Supreme Court should have the power to allow the transfer? If the Government takes the view that they do not want to have transfer of cases from one High Court to another merely for the sake of the convenience of the parties or witnesses, if that be the intention of Government, then we differ fundamentally. But if the Government thinks that the convenience of the parties is as important as allegations which are made about the magistrates and the courts, then the importation of the language of the previous section will be necessary in order to avoid future litigation on this subject.

Dr. Pattabhi: It is included in the wider meaning of the words "ends of justice".

Shri Venkataraman: Those words were there in the previous Act also. But there was also a further provision about the convenience of the parties.

Dr. Pattabhi: The meaning has broadened from litigation to litigation.

Shri Venkataraman: All that I am anxious to do is to make my point clear to the House. I cannot carry conviction to those who do not want to be convinced.

Dr. Pattabhi: That is a defamatory statement.

Shri Venkataraman: I am finishing. I will take not more than five minutes.

Mr. Chairman: Then he may continue after lunch.

Shri Kamath: I think the House will agree that we have made very rapid progress today. In view of the Prime Minister's party this afternoon, may I suggest that we meet from 3 to 4-15 only?

Mr. Chairman: Normally the House is not concerned with parties, but in view of the fact that we have made considerable progress, I think the

House will have no objection to accept this suggestion to sit till, not 4-15, but 4-30.

The House then adjourned for Lunch till Three of the Clock.

The House reassembled after Lunch at Three of the Clock.

[MR. SPEAKER in the Chair]

Shri Venkatraman: I was submitting before the House rose for lunch that the omission of the words "convenience of parties or witnesses" from this new Bill which is brought before this House will amount to taking away the jurisdiction of the Supreme Court to transfer cases where the convenience of parties and witnesses alone demand or require such a transfer. I want to submit one thing more in addition to what I have stated before. In section 526 of the Criminal Procedure Code, where the transfer of criminal cases from one court to another is provided for, clauses (d) and (e) read as follows:

"(d) that an order under this section will tend to the general convenience of parties or witnesses; or

(e) that such an order is expedient for the ends of justice or is required by the provision of law."

Therefore the statute has all along considered that the convenience of parties is something different from the ground of expediency for meeting the "ends of justice." The argument of the hon. the Home Minister that the expression "that it is expedient for the ends of justice" will cover cases of convenience of parties and witnesses is not borne out by this legislation which has been in existence in this country for quite a long time. If the words "ends of justice" include "convenience of parties", then, I would submit that section 526 of the Criminal Procedure Code itself would not have provided the disjunctive "or" before these two clauses. What appears to be the contemplation of the framers of the Criminal Procedure Code is that these two clauses, namely convenience of parties and the grounds of expediency for meeting the ends of justice are two independent grounds on which the court is entitled to transfer cases. If that is so, in the present Bill if the words are restricted to the expediency for meeting the ends of justice, then it would follow that the Supreme Court will not be entitled to transfer cases where the convenience

of parties and witnesses are concerned.

I do not want to repeat myself, but I want to make it clear to this House that when we are copying a legislation which is already on the Statute Book we ought to copy it wholly and we ought not to omit any portion of it unless we deliberately intend to do so. If we deliberately intend that the Supreme Court should not have the power to transfer cases where the convenience of parties and witnesses are concerned, then what we are doing would be right. But if we intend to carry over the law as it exists in section 527 of the Criminal Procedure Code to the new Section 527, then the omission of the words "that it will tend to the general convenience of parties and witnesses" would leave room for interpretation by the courts that the Legislature deliberately omitted those words, because they wanted to take away the jurisdiction from the Supreme Court of transferring cases in which only the convenience of witnesses and parties is concerned. It would be reinforced by a further argument that the words "meeting the ends of justice" do not cover the convenience of parties and witnesses, because in the same Code in a previous section, namely Section 526, there are two distinctive clauses, one dealing with the transfer of cases on the ground of convenience of parties and another dealing with the transfer of cases on the ground of meeting the ends of justice. Therefore, I want to make it clear to this House that if we adopt this legislation as it stands, it would mean that we are taking away from the Supreme Court the right to transfer cases in which only the convenience of parties and witnesses are concerned. This is a very important matter and I for one feel that there is no reason why a provision of a Statute which has stood the test of time, namely section 526, I am not referring to 527, where two clauses are already provided for, should be changed now, making it possible for the courts—and it should be a correct interpretation if the courts say so—that the convenience of parties is not covered by the words "meeting the ends of justice."

I therefore want to appeal to the hon. Minister as well as to the House to see that these words are retained in the new section 527. While we welcome this Bill in so far as it transfers the right to the Supreme Court, I am unable to agree that the expression "meeting the ends of justice" would cover the "general convenience of parties and witnesses"

PANDIT THAKUR DAS BHARGAVA: With your permission, may I put a question to my hon. friend who has just spoken? It is quite true that if these words are taken away a lacuna shall remain between sections 526 and 527, because the whole is greater than the part. But then he will be leaving (a), (b) and (c) of section 526 (1). I would rather like that he and the hon. Minister should consider that instead of the words "ends of justice" some general words may be put in which will cover all the five grounds (enumerated under section 526) which are now available to the High Court for transferring a case. Otherwise, as has been pointed out, (c) will be omitted and (d) will be taken to be omitted. My humble submission is that if you include (d) and (e) alone, then (a), (b) and (c) will be omitted by implication. The powers of the Supreme Court should not be less than those of the High Court in regard to the transfer of cases. I, therefore, suggest that some general words which will cover all the five grounds may be used.

Shri Venkataraman: My answer is this that so far as (a), (b) and (c) are concerned it is not necessary to invest the Supreme Court with the powers for transfer under these grounds, because (a) would be covered by meeting the "ends of justice"—that is, where an impartial enquiry cannot be had in the court in which the case is going on. As regards (b) which refers to some question of law of unusual difficulty being likely to arise, that will be settled by the High Court, and the proper recourse should be had to section 526 and not to section 527. As regards (c) which refers to the occurrence of the offences very near the place, it would be very difficult to imagine of cases where the occurrence took place in one Province and the trial in another. That is why I did not press for (a), (b) and (c) being included. But I should think that (d) and (e) should be included because the two grounds seem to be distinct from each other and unless (d) is included in section 527 the Supreme Court will not have power to transfer cases on that ground.

Shri J. R. Kapoor (Uttar Pradesh): While welcoming this Bill and extending it my whole-hearted support, I would like to associate myself with the views expressed by my hon. friend Mr. Venkataraman and also with the view expressed by my hon. friend Pandit Thakur Das Bhargava. With

regard to the suggestion made by Mr. Venkataraman I would like to express myself that I am in complete agreement with him. As he has very rightly pointed out, if we limit the ground of convenience of the parties, then the natural interpretation that will be put upon it by the court will be that Parliament never intended that on this ground the case should be transferred. True it is that on a generous interpretation of the term "ends of justice" it would cover the ground of convenience of the parties also. Ordinarily it would have been so. When the discussion on this Bill was going on in the morning, from some remarks and cross-remarks that were made on the floor of the House it seemed that many a member was of the view that the expression "ends of justice" would obviously cover the ground of convenience of the parties also. But, as has been rightly pointed out by Mr. Venkataraman, when this expression is specifically and separately mentioned in section 526, the only logical interpretation that the Supreme Court would put would be that if it is specifically mentioned in one section and not mentioned in the other—rather specifically deleted—such a ground was never intended to be covered by the expression "ends of justice".

With regard to the view expressed by my hon. friend Pandit Thakur Das Bhargava that we should not lay it down specifically that every transferred case shall be heard *de novo*, I do not think that it would be in the interest of justice, and particularly for the convenience of the accused, that a hard and fast rule like that should be laid down leaving no discretion to the court and making no provision for the will or the views of the accused to be considered at all. I am, however, of the view that the amendment should be made not on the line suggested by Pandit Thakur Das Bhargava to the effect that the discretion should be left to the court either to proceed with the case from the *de novo* stage or from the stage at which it has been transferred, but I would like that the ordinary procedure should be that the cases should begin from the earliest stage or the initial stage but an option should be given to the accused that if he feels that he would be harassed or inconvenienced in any way or that his interest would be prejudiced by the trial being heard *de novo* then it may be open to him to so express his desire to the court whereupon the case should be heard not from the initial stage but from the stage at which it had been transferred. So my submission is that the original scheme of the Bill

may remain that ordinarily all cases should be heard by the court, to which they are transferred, from the initial stage, but if the accused so desires that the case shall not be heard in a *de novo* form, then the court may proceed from the stage at which the case had been transferred from the original court to its file. This provision should be confined only to cases and not to appeals, because obviously there is no question of an appeal being heard except from the very beginning. I mean we cannot conceive that it would be desirable to suggest, as is the implication of my hon. friend Pandit Thakur Das Bhargava's amendment, that it should be open to a court even to hear an appeal from the stage at which it had been transferred from the original court, meaning thereby that if the appellant had already argued out the case or if the prosecutor had already argued out the case then it should be open to the court only to hear the reply of the other party. So far as appeals are concerned I think the original scheme of the Bill must remain *in toto*, that is all the appeals when they are transferred must be heard from the initial stage.

This is all that I have to submit. In relation to my suggestion I have already tabled an amendment (No. 11) to which I would like to draw my hon. friend Dr. Katju's attention, and if he is pleased to accept it I think he will be doing something which is both in the interests of justice and particularly for the convenience of the accused—because, I am sure the hon. the Law Minister would agree with me when I submit that in criminal cases the convenience of the accused must be particularly considered. The accused must be given the choice either to have the case heard from the initial stage or from the stage at which it had been transferred from the original court.

Shri Naziruddin Ahmad (West Bengal): I have made certain suggestions through some amendments and I shall explain the direction which they should take. With regard to sub-section (1) of the proposed section 527, the Bill clause says that "whenever it is made to appear to the Supreme Court that an order under this section is expedient for the ends of justice" it may pass necessary orders. I submit that it limits the power of the Supreme Court by the two conditions. The first limitation is supplied by the words "whenever it is made to appear to the Supreme Court." It seems to me that it presupposes that some party should move the Supreme Court by an application and it precludes the power

of the Supreme Court in taking action *suo motu* whenever the Supreme Court thinks fit. There may be many cases where a party may be too clever or too ignorant of his own rights but the circumstances may be so glaring or so known to the Supreme Court that it might of its own motion act in this matter. This power should be given to the Supreme Court. It is given to the District Magistrate in his own district and to the High Court in the State. In these circumstances, I submit that the words 'made to appear' should disappear from the proposed action and the other limiting condition is that the Supreme Court can interfere whenever it is expedient in the interest of justice. This phraseology limits the power of the Supreme Court. I should rather say that the Supreme Court may direct any particular case or appeal to be transferred and so forth, leaving the matter entirely in the hand of the Supreme Court. After all it is the highest Court in our land and we may always rely upon the Supreme Court that it will act only where it is desirable in the interests of justice or in other circumstances which make such a transfer necessary. So this power should be given without any condition and the Supreme Court will in every case consider the various aspects which may be relevant.

With regard to proposed sub-section 2, I should eliminate the specific provision for an affidavit unless it is an application of the Attorney General or the Advocate General. The requirement of affidavit is so self-evident that the Supreme Court will in ordinary cases by its own rules of procedure refuse to act in many cases but there may be cases where an affidavit may not be necessary, where the facts may be otherwise notoriously well known from the Press, through other sources or channels, or of their knowledge. The Supreme Court should act although a private party is not required to file an affidavit. In normal circumstances, the Supreme Court will desire it but there may be cases where in the course of hearing of allied matter or matters connected with certain cases, the facts come to the notice of the Supreme Court. In that case the need for an affidavit should not be specifically provided.

With regard to the proposed sub-section 4 here power is given to the Supreme Court to order to pay costs whenever the application was frivolous or vexatious. I submit that so far as the Central Government and the State Governments are concerned, no cost should possibly be given against

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the Central or the State Governments. When the British Government were here it was a well-known practice that the Government or the Crown never took or paid the cost in a criminal case. In fact the Crown appears not as an interested party but as a party which is interested in the general administration of the country. So it neither expects any costs to be paid nor expects to pay any cost. In these circumstances, I submit that the possibility of costs being given against the Attorney General or the Advocate General and so forth should not be left to the discretion of the court. I have made a suggestion to that effect by an amendment that no cost would be allowed against the Central or the State Governments. These are some of the suggestions which are made. I will not press them unless the hon. Minister in charge of this Bill agrees to accept it.

With regard to the provisions for *de novo* trial I do not think that the Bill should be concerned with that. The question of *de novo* trial has been provided in the Criminal Procedure Code and the accused has always a right to demand a *de novo* trial when even the magistrate is transferred or is dead or has ceased to have jurisdiction or when the case is transferred. He has an inherent right and it is a matter entirely to be left to the accused because the accused may think it advantageous to proceed from the stage at which the case was transferred—and also if he thinks fit to ask for a *de novo* trial. It may sometimes be possible that a *de novo* trial would be prejudicial to the accused on the ground of new damaging evidence coming forward and so forth. In these circumstances the matter should be left to the Criminal Procedure Code. The law is clear and there should be no interference with the ordinary discretion left to the Party under the Criminal Procedure Code. These are some of the suggestions for the consideration of the hon. Minister particularly, and if he is agreeable, then I shall move the necessary amendments.

Dr. Pattabhi: I should like to have a little doubt cleared by the hon. Home Minister, if he considers my doubt as relevant to the Bill on hand. Reference has been made in the course of the debate to the Mysore case. There was an attempt made to have the case transferred from the Mysore jurisdiction to that of some other neighbouring province. Ultimately an adjustment was made by pre-empting upon the Mysore Ministry to

invite a Sessions Judge from a neighbouring province to try the case. It is a peculiar case in which the Chief Justice of the High Court of Mysore has alleged that there was an attempt on the part of Mr. L. S. Raju to poison him. In this case a Judge has gone there from Bombay and the case will go on and will be decided one way or the other. In either case, we may expect that there will be an appeal and that appeal as things stand necessarily lies only to the Mysore High Court of which the Chief Justice is the principal character...

Dr. Katju: Is it in order to refer to a pending judicial case?

Dr. Pattabhi: I am not treading upon the merits of a current legal case. I only say that provision must be made for such cases also in this Bill. Now that the Bill is before the Parliament, I have taken it for an illustration.

Dr. Katju: It is in the Bill. They can transfer any appeal.

Dr. Pattabhi: Therefore they must approach the Supreme Court in order to get a transfer of the appeal from the Mysore Chief Court to some other court. All right, Sir.

Dr. Katju: Various points have been mentioned but I would most respectfully ask the House to concern itself with the substance rather than with the form. I am speaking with some experience in these matters. Much has been said about the language of the Criminal Procedure Code, convenience of parties, convenience of witness in sections 526 and 527 of the Criminal Procedure Code. The language is there. The truth of the matter is that in criminal cases invariably, even in the same High Court, an application for transfer is made, not merely on the ground of the convenience of parties, because really there is no such question at all and I should like to come to another aspect of it later. The application is made because there will be no fair trial either because of the prejudice caused by the Police or the district authorities or something which has become unpleasant between the trying magistrate and the accused. So far as a criminal case is concerned, the witnesses are there. The Police authorities are there wherever the offence is committed and when there are some witnesses to be found elsewhere, then under section 503 the magistrate or the Sessions Judge has got complete power to issue commissions for the examination of such witnesses.

Bill

While we are very anxious that the ends of justice should be promoted, we should also be equally anxious that the general rules which are laid down in Codes of Procedure as to where a particular trial should be held should not be interfered with lightly. Those rules should not depend upon the convenience of a few witnesses; nor should it be open to the parties whether in a civil or a criminal case to say that they would like to have a particular trial in Bombay rather than in Nagpur. They should follow a general law. The words which have been used in the Bill, as my hon. friend Pandit Thakur Das Bhargava said and Mr. Naziruddin Ahmad said, are the widest possible and the widest imaginable. They give the utmost latitude to the Supreme Court to see one thing secured, namely ends of justice, so that in a criminal case the trial may be held in an atmosphere free from poison, free from prejudice. It is not a question of convenience of witnesses or parties. I do not quite understand what my hon. friend meant by saying parties. In a criminal case, who are the parties? The State Government or the prosecution is one party and the other party is the accused. The ends of justice are that there should be fair trial. The accused should feel that justice is being meted out to him. The bare fact that this statute which was enacted in the year 1862 contains these words should not be sacrosanct for us that we should reproduce that very language which was in substance meaningless. So far as section 527 is concerned, it was all an executive matter. I have no statistics in how many cases the Central Government took action: may have been during the last 100 years three or four or five; not a material number. So far as section 526 is concerned, the House may take it from me that in 999 cases out of 1000, it is ends of justice; all these things are never mentioned. I, therefore, respectfully suggest that we have with a set purpose tried to make the section the widest possible and we have done it after very careful consideration. We have consulted all the State Governments. No one has taken any objection to this. They said, "It is quite all right; it gives to us everything; it gives to the accused everything". The Supreme Court is there and they will look into it. My hon. friend Mr. Naziruddin Ahmad said that the Supreme Court may take action on its own motion. I do not consider it proper. The Supreme Court is dealing with 36 crores of people. It is not like the court of a district magistrate or a sub-divisional magistrate who may be expected to know

what is happening in his district. The Supreme Court Judges are not asked to receive anonymous petitions or read newspapers everyday and then ask the Registrar to issue notices for this purpose. It will be highly derogatory to the honour and dignity and status of the Supreme Court in a matter of this kind if they were to issue notices in this regard. They have given the right to move the Supreme Court to the Central Government as representative of whole of the Union of India. Wherever there is a suitable case, the Central Government may make a motion and have the case transferred. The party interested namely the State Government or the accused may make a motion. What more do you require?

Then there is the question of costs. Mr. Naziruddin Ahmad very kindly said that the Central Government and the State Governments could always be expected to behave in a reasonable manner and he has tabled an amendment that no costs should be allowed against Government. I am almost half inclined to agree with him that that might be provided by statute. But, I again trust the Supreme Court. I think they will bear that in mind.

Pandit Thakur Das Bhargava: The cost will be given to the person aggrieved; that is the provision.

Dr. Katju: Yes; in the case of frivolous applications. I think we had better leave that matter entirely to the discretion of the court.

There remains another point on which some amendments have been tabled namely the right of the accused to ask for a *de novo* trial. I am in sympathy with them. I do not want to object to that. What occurred to me when we were drafting this statute was this. In the High Court, according to my knowledge, what happens is, when an application is being argued out, the High Court indicates an opinion. Then, they say, "It is just the beginning of the trial, you have a transfer and have a *de novo* trial". Sometimes, the High Court says, "You have come too late; the whole thing has been practically over; so many witnesses have been examined;—there may be commissions for examination of witnesses, medical witnesses and expert witnesses—we are not prepared to transfer the case unless you agree that you will not have a *de novo* trial". The accused agrees. So, they consider the matter and make a proper settlement. I think the Bill contains sufficient safeguards to enable the Supreme Court to pass a proper order in every case. But, if the House is of the opinion and is keen upon the matter, I have no objection to accept the

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amendment tabled on that score. But, let me tell you, not as a Minister, but as a lawyer, that it may be a little cruel kindness on your part because the tendency on the part of every accused is to ask for a *de novo* trial. He thinks, in a *de novo* trial I may get something out of the witnesses, I may get it twisted, I may try to influence them unduly and he spends money. I think the greater kindness to him is, when once a witness has been cross-examined, to leave him alone and to let the record alone. I generally notice the tendency as a result of overflowing kindness for the accused is to make the trial go on protracting from court to court, from High Court to High Court, right up to heaven. The man may or may not be convicted; but he may be completely ruined. If my hon. friends here insist (*Shri Triagi*: Practising lawyers) I did not say practising lawyers. They are practising Parliamentarians. If they think that it is absolutely necessary that the accused should have this right to demand a *de novo* trial, which the accused always does, let them have it. My personal advice is to let the accused be alone; let the Supreme Court do what it considers proper.

Shri J. R. Kapoor: Am I correct in understanding that according to sub-clause (3) of clause 2—I speak subject to correction by the hon. Minister—every case when transferred must necessarily begin from the initial stage?

Pandit Thakur Das Bhargava: This is the meaning. Otherwise.....

Dr. Katju: So much the better for you. Why then do you want an amendment?

Shri J. R. Kapoor: That right has been given in sub-clause (3). This right must remain as it is. An additional right should be given to the accused that if he does not want a fresh trial, the trial may continue from the stage at which it was transferred.

Dr. Katju: My hon. friend is on the horns of a dilemma. The language has been very carefully chosen. As it stands, section 350 of the Criminal Procedure Code may be availed of. Section 350 provides that if a case is pending before one magistrate and then that magistrate is transferred and the case goes on the file of another magistrate his successor or somewhere else the accused has got a right to ask that the magistrate should try the case *de novo* or the magistrate may proceed upon the evidence which has already been recorded. Any attempt

on your part to insist and bring in this Bill that this right exists and that the accused should have this privilege, it will only be provoking the accused to take this action.

Shri J. R. Kapoor: I have not been able to express myself clearly. Far be it from me to suggest that in this Bill the accused should be given this right which right he is already given under sub-clause (3). He has got it without asking.

Dr. Katju: So much the better.

Shri J. R. Kapoor: My point is, if you will kindly permit me to express myself clearly, that in addition to this right which is being given to him, he should have the further right if he wants not to begin from the initial stages, but to proceed from the stage at which it was at the time of the transfer. The court need not necessarily impose on the accused a *de novo* trial. A *de novo* trial is provided in the interest of the accused and to give certain facilities to the accused. But if the accused himself feels that he would be unnecessarily harassed, put to inconvenience and unnecessary expenditure after the prosecution is over and the witnesses examined and after he had paid heavy fees to the lawyers, he should be able to say that the case need not start from the initial stages in the court to which it has been transferred, but it may continue from the stage at which it had been transferred.

Mr. Speaker: I would suggest an examination of the interpretation put on the provision by the hon. Member. I do not know whether that is the correct interpretation.

Dr. Katju: Actually section 350 of the Criminal Procedure Code covers the point mentioned. May I read that section? It runs thus:

"Whenever any Magistrate, after having heard and recorded the whole or any part of the evidence in an inquiry or a trial, ceases to exercise jurisdiction therein, and is succeeded by another Magistrate who has and who exercises such jurisdiction, the Magistrate so succeeding may act on the evidence so recorded by his predecessor, or partly recorded by his predecessor and partly recorded by himself, or he may re-summon the

witnesses and recommence the inquiry or trial.

Provided as follows:

(a) in any trial the accused may, when the second Magistrate commences his proceedings, demand that the witnesses or any of them be resummoned and re-heard;"

Pandit Thakur Das Bhargava: There seems to be some confusion. My hon. friend referred to sub-clause (3) of clause 2, whereas the hon. Minister is reading from section 350. I think when we come to the amendment to the concerned clause, the whole thing will be explained in no time.

Mr. Speaker: My difficulty is, when I was hearing Mr. Kapoor, I understood him to make the assumption that—and that is of basic importance to the present argument—that once there is an order of transfer, everything must begin *de novo*. Is that the position?

Pandit Thakur Das Bhargava: To get over that particular difficulty, I have given notice of an amendment so as to bring the provision similar to what we have in the Criminal Procedure Code. The present provision here goes against section 350 of the Criminal Procedure Code.

Dr. Pattabhi: There may be a change of Magistrate or a change of court or a change even from one Province or State to another. There may be a demand for a change from the Province itself.

Mr. Speaker: I have no experience of criminal practice, but I am going by these words that we have here—"shall deal with the same as if it had been originally instituted in or presented to, such a court." It does not necessarily mean—it appears to me—that the proceedings up to that time are null and void absolutely, and *de novo* proceedings ought to take place. It merely gives him the jurisdiction and perhaps authorises him to proceed from the stage where the case was left. Or, as the Home Minister has pointed out, in certain special cases the accused may have the right of a *de novo* trial. So it provides for both.

Dr. Katju: The language used here is only an acutal reproduction of the language of section 522 (2). I do not think there will be any difficulty about it and no one will have anything to complain.

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Mr. Speaker: Well, I shall put the motion. The question is:

"That the Bill further to amend the Code of Criminal Procedure, 1898, be taken into consideration."

The motion was adopted.

Clause 2.—(Substitution of new section)

Pandit Thakur Das Bhargava: With regard to this clause, I want to move my amendment. I beg to move:

In page 1, for lines 19 to 21 substitute:

"(3) The court to which any case or appeal is transferred under this section may proceed with the same either from the stage at which it was at the time of transfer or as if it had been originally instituted or presented to such court:

Provided that if any party interested desires that the case be heard *de novo* it shall proceed as if the case or appeal as the case may be had been originally instituted or presented to such court."

First of all, I would like to submit that when I gave notice of this amendment I did not have a copy of the Code of Criminal Procedure with me, but I was guided by the principles which are enshrined in the provision of section 350 of that Code and section 24 of the Civil Procedure Code. In the Civil Procedure Code the provision is to the effect that if any suit is transferred to one court from another court, it can either try it from the very beginning or can continue it from the stage at which it was transferred. It is the first duty of a court to do justice. It may happen that it may suit the accused or the prosecution not to allow the court to go afresh into the matter. But the court should have the power to decide. Otherwise it will be deprived of the jurisdiction to decide the case rightly. It should have the power to proceed with the suit as it pleases. In criminal cases usually a good many witnesses are examined and the impression left after hearing the witnesses is of the utmost importance in the case. Therefore, I feel that first of all we must accept this principle, that the court must be invested with the power to try the case from the very beginning so that all the witnesses may be heard by the court, even if the accused wishes or does not wish that to happen. It may be to the interest of the accused that the court may not get an impression against him from any of the witnesses already examined. But so far as the ends of justice are concerned it is

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necessary that the court should be fully armed with the power to hear all the witnesses. That is my postulate number one.

Secondly in a particular case the court may want not to proceed from the very start of the case and the accused may be of the same opinion as also the prosecution. If all the three are of that opinion, my submission is that the words of section 527 which are reproduced in this clause are capable of the interpretation that the court is bound to recommence the proceedings, for the words here are,—“The court to which any case or appeal is transferred under this section shall deal with the same as if it had been originally instituted in, or presented to, such court.” I do submit that this is capable of another interpretation also. It may be taken that in the case of a suit in which proceedings have taken place it is for the purpose of jurisdiction that these words have been inserted. It is also capable of being interpreted to mean that all the previous proceedings have been null and void and that the case is originally instituted then and there. If this second interpretation is taken by the court, the difficulty is that section 350 of the Code of Criminal Procedure will not apply. Therefore, to take it out of the possibility of different interpretations being put and to avoid all kinds of ambiguities, I would request the hon. Home Minister to consider the applicability of section 350 to a case of this nature.

Shri Naziruddin Ahmad: Is it 315 or 350?

Pandit Thakur Das Bhargava: It is section 350. There need be no doubt on a question of fact.

I am myself not very much satisfied with the wording of the amendment because it does not fully follow the phraseology of section 350. In that section the court is given certain power by the words:

“the Magistrate so succeeding may act on the evidence so recorded by his predecessor, or partly recorded by his predecessor and partly recorded by himself; or he may re-summon the witnesses and recommence the inquiry or trial.”

[SHRIMATI DURGABAI in the Chair]

So the power is there with the court to recommence the trial whether the accused or the prosecution wants it or not.

Secondly, in any trial the accused may, when the second Magistrate commences the proceedings demand that the witnesses or any of them be re-summoned and re-heard. This is very important. My submission is that unless this right is given it would lead to injustice, even if a transfer is allowed of the case. Because when a person goes to the high court or to the Supreme Court it is because he is aggrieved with the proceedings of the lower court from which the case is wanted to be transferred. Certain witnesses may have been examined and the evidence may not have been recorded in the manner provided by law. The court may have written whatever it liked. The court may not have conducted the examination properly or the accused may not have been treated properly or cross-examination in detail disallowed. That is the reason why the accused is not satisfied with the lower court. So if all that evidence is not allowed to remain and all the witnesses are allowed to be re-examined, the whole purpose of the transfer of the case will be lost. I quite see the force of the criticism of the hon. Minister when he says that an accused always likes to have the case tried *de novo*. May I inform him that no accused would like to be retried. The whole evidence may be such that no court could convict him. At the time of the argument when the accused wants to have his case transferred he thinks that the whole case may remain on the record as it is. The judge may be transferred and the argument heard by another judge. It is not in the interest of the accused to say that the trial should be *de novo*.....

Shri J. R. Kapoor: According to Pandit Bhargava's amendment it will be open to the court, in spite of the wishes of the accused to the contrary, to start the case from the very beginning.

Pandit Thakur Das Bhargava: First of all, before even the interest of the accused the interests of justice are there. If you do not arm the court to have that power it means that the court will not be able to do justice. It might happen that the court may like to hear the evidence from the start. I would call the attention of my hon. friend to section 350 (b) which says:

“the High Court, or, in cases tried by Magistrates subordinate to the District Magistrate, the District Magistrate may, whether there be an appeal or not, set aside any conviction passed on

evidence not wholly recorded by the Magistrate before whom the conviction was held, if such Court or District Magistrate is of opinion that the accused has been materially prejudiced thereby, and may order a new inquiry or trial."

The original principle was this that the whole evidence must be heard by the judge who decides the case. If justice can be done on the evidence already on record there is no reason why there should be *de novo* proceedings. However, the court is entitled to rehear the witnesses and I would be loathe to see that the powers of the court should be curtailed in this matter. The court should be entitled to re-summon the witness in the words of section 350.

My friend Mr. Kapoor argued that this should apply only to original cases and not to appeals. Obviously so far as appeals are concerned, the whole appeal must be heard. There are appeals in which evidence is taken under section 428. It might happen that the court calls for witnesses or they may have them examined in different places like Bombay, Calcutta or Madras and the accused may be happy with those witnesses and does not want a trial *de novo*. In the appeal court the case may be taken up from the place where the evidence was last finished, for it is a question of convenience and economy. It is a question that time should not be wasted and the accused should not be put to inconvenience. The law which we have had for a long time has stood the test of time, namely section 350 and I would beg the hon. Minister to consider and accept the amendment in the words of section 350. Sub-clause. (3) of section 350 reads:

"When a case is transferred under the provisions of this Code from one Magistrate to another, the former shall be deemed to cease to exercise jurisdiction therein, and to be succeeded by the latter within the meaning of sub-section (1)."

If sub-clause 3 did not exist in section 527 or in the Bill I would not have suggested any amendment. Since it is there in the Bill my interpretation is that it changes the law so far as section 350 is concerned. Therefore I am seeking this amendment. The hon. Minister's interpretation is that it only gives jurisdiction but does not change the law. If I were satisfied with the argument I would not attempt to change it. My submission is that this can be interpreted as legislating to the effect that the case must be

regarded as a new case in that court. The words are: "as if it had been originally instituted in or presented to such court." The previous proceedings are wiped out after the transfer. The original jurisdiction is in that court and if that is so all the previous proceedings are wiped out by the force of these words. We should be well advised if we keep the words of section 350. If you omit sub-section (3) there will be no need for an amendment. If you omit section 3 of clause 2 then it means that section 350 shall apply to it as it is applied to any other case. Am I correct?

Dr. Katja: I have been hearing the hon. Member all right.

Pandit Thakur Das Bhargava: Sub-clause (3) may be deleted or the substance of my amendment may be accepted.

The Home Minister was pleased to tell us that it usually occurs in the High Court when a case for transfer is there and when the accused is asked to say whether the case can be taken up from the stage in which it was when the transfer takes place the accused and his counsel agree. It is an usual experience. At the same time such an agreement, though not under duress, is under a misconception. The accused and his counsel agree not after a proper consideration but as a matter of bargain. If the accused's counsel gives an undertaking, then when the case is transferred there will be a clash between section 350 and this undertaking of the counsel. I am submitting this for the consideration of the House. We should not allow the Supreme Court to consider at that stage as to what is to be done in the lower court. After the case is transferred, the court to which it is transferred comes to the conclusion that they should hear witness, they may re-summon the witness and re-commence the enquiry. When the Supreme Court has ordered that the case is to be taken up at the stage at which it was left in the previous court, it means you are taking away the powers of the court as also the right of the accused to consider calmly what he should do. Under section 350(a) he can exercise those rights as to whether the case should be tried *de novo* or from the stage at which it was previously left. In all these circumstances we should be well advised in keeping the law as it is. This law has stood the test of time and everybody is satisfied. We do not want to prolong the proceedings. As a matter of fact if your provision is there, it is tantamount to prolongation

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and harassment. You do not leave any choice. The case must be tried *de novo*. All the previous stages are wiped out. Justice and past experience require that we keep the law as it is and delete sub-clause (3). The same purpose will be gained or met substantially by my amendment in the words in which they appear in section 350, namely "or he may re-summon the witness and re-commence the inquiry or trial". These words may be taken to be in my amendment, if I am allowed to amend my amendment. I would beg of the hon. Minister to consider it: he has got the substance of the amendment. If he agrees there will be no difficulty in changing it to that extent.

4 P.M.

One word regarding the amendment suggested by my friend Mr. Naziruddin Ahmad. He was of the view that the court should be able to transfer the case on its own initiative. I consider that a very salutary rule. As we heard this morning, our High Courts and our Supreme Court are really the palladiums of justice and they should be enabled to do justice whenever any case comes to their notice in which injustice can be done, and for that those courts should be able to transfer the case on their own initiative. Under section 526 even today the High Court has got this power.....

Shri Venkataraman: No, Sir. Please see section 526. It says:

"Whenever it is made to appear to the High Court:

(a) that a fair and impartial inquiry or trial cannot be had....."

Pandit Thakur Das Bhargava: I know those words appear there, but the same section continues to say:

"The High Court may act either on the report of the lower Court, or on the application of a party interested, or on its own initiative."

"Whenever it is made to appear to the High Court", these are the words with which the section begins, but in sub-section (3) you find the words I have quoted above. Though my friend has submitted for the consideration of the hon. Minister that on its own initiative the Supreme Court may be empowered to transfer a case, supposing there is an occasion when a High Court itself makes a reference and submits to the Supreme Court?

Shri Venkataraman: That would be covered by the clause, "Whenever it is made to appear to the Supreme Court".

Pandit Thakur Das Bhargava: But sub-section (2) in the Bill says, "The Supreme Court may act under this section only on the application of the Attorney-General of India or of a party interested" and the effect of those words is taken away. Even if the High Court wants to take the case up, the Supreme Court will not be able to act without the application of the Attorney-General or the party concerned. Why are you taking away this power? You have given such high powers to the Supreme Court. In our discussions in the Constituent Assembly we decided that the Supreme Court was the biggest Court in India for every kind of case and we gave it such power that it could do justice in every case. I do not understand why the powers of the Supreme Court should not be as great or more extensive than those of the High Court. So, this amendment is certainly very good and should be accepted.

Dr. Katju: I am clearly of opinion, for whatever it is worth that section 350 will be applicable, but in order to cut short the discussion I am prepared, if the House accepts it, to move this amendment. Instead of the present sub-section (3) substitute the following:

"The court to which such case is transferred may act on the evidence already recorded or partly so recorded and partly recorded by itself, or it may re-summon the witnesses and re-commence the inquiry or trial."

That is a reproduction of section 350 because the Magistrate must have the power to do justice himself. Then—

"Provided that in any case so transferred the party interested may, when the court to which the case is transferred commences its proceedings, demand that the witnesses or any of them be re-summoned and re-heard."

I have used the words "party interested". That will leave an opportunity to both the parties, namely the accused as well as the complainant or the State concerned because the magistrate is another magistrate. I have in this quoted the very words which my

friend, Mr. Bhargava used in his amendment No. 4, namely:

"Provided that if any party interested desires that the case be heard *de novo* it shall proceed....." etc.

So, I submit that very likely this may meet the objections raised. As I understood his argument, he said that the court may hold that section 350 was not applicable. Well, we are quoting the very words of section 350.

Pandit Thakur Das Bhargava: Quote it entirely. Instead of the words used "party interested" use the words "the person accused". I made a mistake—why should you make the same mistake?

Dr. Katju: I want to give a fair deal to both the parties.

Pandit Thakur Das Bhargava: The court is there to do it.

Dr. Katju: The "party interested" means both parties and it may be desirable for the complainant or the State concerned that the new magistrate in another State should have the witnesses and hear them. It is not a question of preferring the one or the other. We leave it to the magistrate.

Shri Naziruddin Ahmad: So far as the amendment suggested by the hon. Minister is concerned, it will extend the benefit or the mischief given by section 350 to the complainant.

Shri Venkataraman: To the prosecution also.

Dr. Katju: Section 350 is very long—we are putting it here shortly.

Shri Naziruddin Ahmad: Section 350 gives power to a new magistrate to try a case *de novo* if he thinks it fit. It gives the accused a right to ask for a *de novo* trial, but it does not give the complainant or the State any right to demand it. This amendment will extend the mischief of the prosecution also. The real point which should govern the principle of a *de novo* trial would, I believe, be that they should be cases where there is oral evidence of some importance and there the demeanour of the witnesses may be very important. No written evidence can give a proper idea as to whether the witness is truthful or otherwise.

Dr. Katju: The difficulty is that when I accept an amendment moved by Mr. Bhargava he gets out of it.

Pandit Thakur Das Bhargava: I do not get out of it. I am very glad that you have accepted it, but substitute the words "party interested", by the word "accused".

Shri Naziruddin Ahmad: I submit this amendment of Pandit Bhargava is unnecessary. Sub-section (3) admits of no difficulty at all, no doubt at all. As the hon. Minister has explained, it merely reproduces the provision of section 527 of the Criminal Procedure Code.

Dr. Katju: We are here to legislate. We are not here to follow everybody.

Shri Naziruddin Ahmad: I do not blindly copy anything, but the language means exactly what the hon. Minister says, namely that the court to which the case is transferred may treat the case or appeal as if it was originally instituted. It gives a similar jurisdiction to the new court as if it was the court in which it was originally instituted. It does not extend or restrict the power of the new magistrate to allow a *de novo* trial or proceed under section 350 with a *de novo* trial. That situation is totally unaffected: it merely concerns itself pointedly and specifically with saying that the magistrate or the court will have jurisdiction as if the case was originally instituted before him. That, and not the progress of the trial, is emphasised. When we say, "originally instituted before the court", he has the right to proceed with the case and proceed in such a manner as he thinks fit. He may go on with the case as it is, or if he thinks it necessary he may take further evidence or *de novo* evidence. Of course the accused person should be given the power to ask for such trial. But I submit it would be highly improper to give the right to the complainant or the prosecution. That would be introducing a new principle and it would be objectionable on the ground that a prosecution may harass the poor accused unnecessarily. The right should be given to the court which has the duty of deciding the case on the merits. In these circumstances, this amendment would not be necessary and sub-section (3) is not capable of the interpretation put on it by Pandit Thakur Das Bhargava.

Dr. Katju: In deference to the very learned argument of my hon. friend I am prepared to accede to his wish and instead of the words "party interested" substitute the words "person

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accused." I shall move the amendment formally. I beg to move:

In page 1, for lines 19 to 21 substitute:

"(3) The court to which such case is transferred may act on the evidence already recorded or partly so recorded and partly recorded by itself, or it may re-summon the witnesses and recommence the enquiry or trial:

Provided that in any case so transferred the person accused may, when the court to which the case is transferred commences its proceedings, demand that the witnesses or any of them be re-summoned and re-heard."

Shri J. R. Kapoor: The word "appeal" may also be added, because in the whole Bill both "case" and "appeal" are used.

Dr. Katju: The appeal is heard before judges; there is no question of examination. It is not necessary.

Pandit Thakur Das Bhargava: So far as my amendment is concerned, I do not press it, because of the amendment substituted by the hon. Minister incorporating my idea.

Shri J. R. Kapoor: I have three amendments, Nos. 8, 9 and 10. I shall move them only if the hon. Minister is prepared to accept them.

Dr. Katju: I am not prepared.

Shri J. R. Kapoor: Then I do not move.

Shri Naziruddin Ahmad: I have an amendment, No. 13. Since the hon. Minister is extremely...

An Hon. Member: Compromising?

Shri Naziruddin Ahmad: No, but since he is open to conviction, I should like to attempt a compromise. I beg to move:

In page 1, lines 8 and 9 for "Whenever it is made to appear to the Supreme Court that an order under this section is expedient for the ends of justice, it" substitute "The Supreme Court".

Dr. Katju: I am unable to accept it.

Shri Naziruddin Ahmad: It should be clearly expressed that the Supreme Court, where it be overburdened, will not take it up. It will not undertake any duty which will overburden it.

Dr. Katju: It is not acceptable.

Shri Naziruddin Ahmad: Then it need not be put.

Mr. Chairman: Then the only amendment is that of the hon. Minister. The question is:

In page 1, lines 19 to 21 substitute:

"(3) The court to which such case is transferred may act on the evidence already recorded or partly so recorded and partly recorded by itself or it may re-summon the witnesses and recommence the enquiry or trial:

Provided that in any case so transferred the person accused may, when the court to which the case is transferred commences its proceedings, demand that the witnesses or any of them be re-summoned and re-heard."

The motion was adopted.

Mr. Chairman: The question is:

"That clause 2, as amended, stand part of the Bill."

The motion was adopted.

Clause 2, as amended, was added to the Bill.

Clause 1 was added to the Bill.

The Title and the Enacting Formula were added to the Bill.

Dr. Katju: I beg to move:

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

Mr. Chairman: The question is:

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

The motion was adopted.

PREVENTIVE DETENTION (AMENDMENT) BILL

The Minister of Home Affairs (Dr. Katju): I beg to move:

"That the Bill further to amend the Preventive Detention Act, 1950, be taken into consideration."

I do not know what the House thinks about this measure, but I think it is very harmless.

Shri E. Velayudhan (Travancore-Cochin): Very harmless?

Dr. Katju: Yes, I use every word in my speeches deliberately and I say this is a very harmless measure in this sense that we are anxious that the whole policy underlying this preventive detention legislation should be considered by the new Parliament. That Parliament is likely to meet in the month of May or thereabouts and then I dare say many aspects will be put forward for consideration. Meanwhile, I would like to remind this House that the Preventive Detention Act was passed in 1950. It was amended on the 1st March 1951. Of course, it is open to the House to change its views and to say that it should be dropped altogether. That is a different matter. But the reasons which led to this enactment in 1950 are well known. They have been considered from time to time at the time of the amendments and when it was passed very many features were introduced in order to ensure that while there should be in the hands of the Executive Government the power to detain, at the same time there should be the least danger of the power being abused or misused or used on improper or insufficient materials. With that view, the constitution of advisory boards was provided for in the Act. Those advisory boards were made to consist of judicial officers. They look into every file, consider every case, consider the representations made by the person detained, and then they tender their advice to the State Governments. Further, I would like to remind the House that this Preventive Detention Act has been enacted for various purposes. Section 3(a) lays down that if the Central Government or the State Government is satisfied with regard to any person that it is necessary in order to prevent him from acting in any manner prejudicial to the defence of India, the relations of India with foreign powers or the security of India, or the security of the State, or the maintenance of public order, or the maintenance of supplies and services essential to the community, then action may be taken. It is not as if this Act was passed and directed against any particular political group or party or political ideology. The intention was the preservation of the security of India and the safeguarding of the defence of India, the maintenance and promotion of public order and stoppage and checking of anti-social activities.

Shri R. Velayudhan: Is it the Minister's opinion that it was not used against any political party?

Dr. Katju: He has not understood me correctly. I said it was not directed against any political party.

Mr. Chairman: Let there be no interruptions. The hon. Member can express his opinion when he gets his chance.

Dr. Katju: I have got some figures here up to the end of December 1951. After that there has been some change in favour of the party for which my hon. friend was just now speaking. This is for the whole of India.

Communists	1,160
Others	481
Total.	1,641

The House will recollect that early this month when a question was put to me as to what was the Government's present policy in regard to Communists, I said that while the question of law and order was primarily for the State Governments, the Government of India had advised them that it was desirable that the case of every single detenu should be reviewed and reconsidered and wherever possible release should be ordered. That has been carried out: many communists have been released. The West Bengal Government issued a long press communique in which they said that while they were still continuing in detention a number of communists, they had released 46.

I should like to make one thing quite clear, and it is this, that no communist is being detained simply because he is a communist or because he is a member of the Communist Party. The detention is based upon concrete evidence or information which is available to the State Governments or the Central Government from sources open to them, of concrete acts which are calculated to subvert the Constitution or promote violence.

Babu Ramnarayan Singh (Bihar): Why are they not prosecuted?

Dr. Katju: My hon. friend knows that sometimes it is very easily said than done. The idea of detention is not to give advertisement, but to secure the object of preventing a breach of law and order. That is a matter which we have already gone into when we passed this Act. The Bill now before the House seeks to extend the life of the measure by another six months.

Elections have just been held. So far as the intention of Government is concerned, the House knows that utmost facilities were given to every single party to take part in the elections. Detenus whenever they wanted to stand and seek elections were

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allowed to get out on parole. They conducted their election campaigns and no obstruction was placed in their way in any shape or form for carrying on their electioneering campaigns.

It is a matter of common knowledge that new Governments are coming into existence; new problems are arising in various parts of India; there have been great disturbances in Telengana, Saurashtra and in other areas; there have been murders and arsons. I am not going into past history; I am not going to say that more than three thousand murders were committed in Telengana—that is a different matter. The situation today is very fluid. I know that from time to time various statements are made in the press about the change of policy that very many people now want to work the Constitution. I welcome such declarations. If these declarations are genuine—I do hope they are genuine—then no harm will be done by extending this measure for a short period. Within two or three months the new Parliament will be meeting and Government after taking into consideration the existing position and if they think fit, may ask the new Parliament to extend the life of this Act for a further period or to modify it.

Shri Kamath (Madhya Pradesh): Or make it permanent.

Dr. Katju: You will not be there to make it permanent. It will be according to the will of the new Parliament where everybody will have his say.

Shri R. Velayudhan: Why can this Parliament not do it?

Dr. Katju: After Question Hour every day the hon. Mr. Speaker announces the names of gentlemen who have resigned or are resigning. Of course, this Parliament is absolutely representative and I have had four Bills passed today.

Shri J. R. Kapoor (Uttar Pradesh): For a measure like this to be permanent we must wait for the day when Mr. Kamath and Mr. R. Velayudhan will be on that side of the House.

Shri Kamath: Where will Dr. Katju and you be then?

Dr. Katju: My hon. friend over there will say that he is the sole representative of a particular class—no one else.

Shri R. Velayudhan: No.

Pandit Thakur Das Bhargava (Punjab): He denies it.

Dr. Katju: I am glad to hear it. I should like it to be strengthened by a larger number of persons in the new Parliament.

The Minister of State for Home Affairs (Shri Sidhva): Why is he afraid—it will not be applied to him?

Dr. Katju: I, therefore, say that no harm will be done by extending the life of this measure for a short period of six months.

I do not want to extend myself or deliver a long speech. The only amendment that has been tabled so far is that the Bill may be circulated for public opinion. That is a euphemistic way of saying that the Bill should be dropped. The Act is going to come to an end on the 31st of March. This session will come to an end on the 5th or sometime early next month and then we will not meet again. The next meeting will be of the new Parliament. So the amendment is really a downright 'No'. The question before the House is a short and simple one. Do you or do you not want to extend the life of this Act? I should like my hon. friends sitting anywhere to say why the Act should not be extended. Are they quite sure of the atmosphere prevalent in the country? All sorts of speeches are being made. I may tell you one thing—to quote a very famous phrase—"confidence is a plant of very slow growth". It was said by the orator who used the phrase that it is a plant of very slow growth in an aged bosom. My bosom is not so aged as that of the speaker: anyway, I do not feel it. I am rather sceptical of the various declarations made by different parties. They are sometimes made to suit the changing atmosphere—maybe tactical. I wish from the bottom of my heart that all those declarations were genuine, true and sincere. I wish that I had the power to make those people come round to my views.

I am not afraid of communism, socialism or any 'ism'. We are a democratic country and if the people want to go all communist or socialist it is open to them to do so. It is a question of ideology. Gandhiji used to say that he was the best of communists. He wanted to work for a classless society, he wanted to work for the removal of untouchability, for the raising and elevation of Harijans and depressed classes and tribal people and scheduled castes. But the question is fundamental: do you want it

by one way, or do you want it by the other way? Do you want it through the way of violence and murder and loot and what I have seen with my own eyes in Calcutta two years ago, or do you want it the other way round which is being exemplified every day by Shri Vinobha Bhave? That is the main question. Here speeches are being made, press conferences are being held that there has been a genuine change. As I said, I pray to God that those are genuine things and that in India every political party, no matter what it is and what it stands for, says that we shall work in a democratic manner—we shall appeal to the masses, we shall spread our doctrine, we shall either go and work in favour of the Government and the Congress or in favour of our own parties, but we shall not do one thing. We shall not ask any one to break the law by violence or commit offences. That is the one thing that is wanting. And I suggest to you most respectfully that the six months may be a very trying and testing period for that. If those professions are genuine and nothing happens, very likely there may be no necessity for the Act or there may be necessity for a very modified Act. But let us see what happens.

With these few words I commend this Bill to the consideration of the House, and if there is anything said of importance I shall give a reply to it.

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Dr. S. P. Mookerjee (West Bengal): May I ask for one piece of information? The hon. Minister said that the scope of this Act was widened and it was made applicable to cases of a non-political nature. The list which he has just given includes cases only of a political nature. Could he tell the House actually in how many cases of a non-political nature the provisions of this Act were applied—if not today at least tomorrow?

Dr. Katju: So far as I know, the total number of detenus, political and non-political, is 1,641.

Dr. S. P. Mookerjee: Can he have it classified, if possible tomorrow?

Dr. Katju: I shall try.

Shri Kamath: State-wise figures also may be given.

Mr. Chairman: Motion moved:

“That the Bill further to amend the Preventive Detention Act, 1950, be taken into consideration.”

The debate will continue tomorrow. The House stands adjourned till 9-30 A.M. tomorrow.

The House then adjourned till Half Past Nine of the Clock on Friday, the 29th February, 1952.