

Certain changes have taken place in the meantime, and the Finance Ministry want to examine in depth whatever formulations have been arrived at by the Cabinet sub-committee regarding bonus and decide what attitude should be taken towards payment of bonus to railway, P & T and defence employees, and only after the Finance Minister examines a final decision can be taken. I can assure you that we will try our best to see that these problems are sorted out not in confrontation with the working class, but in co-operation with them. That has continued to be our attitude, and in the future also that will continue to be our attitude.

SHRIMATI PARVATHI KRISHNAN: He has not said anything about what I raised, about my getting the letters in Hindi. I continue to get letters in Hindi and that is a very important point. The Minister cannot deny that.

PROF. MADHU DANDAVATE: I will reply to that.

I forgot to make one announcement. As far as the season tickets are concerned, we had decided that the previously concessions that even the quarterly pass would be available at two and a half times the monthly pass that was removed—would be restored and therefore, in future even the quarterly passes will be available at two and a half times the monthly pass.

SHRIMATI PARVATHI KRISHNAN: What about my getting letters in Hindi? I continue to get letters in Hindi.

PROF. MADHU DANDAVATE: It is a very sensitive issue. I will conclude on that point.

SHRIMATI PARVATHI KRISHNAN: I send representations and cannot replies. If you want me to stop making representations, I will do so.

PROF. MADHU DANDAVATE: Don't get angry. At least I will not get angry on the language issue. As far as my replies are concerned, the replies go in the language in which they come. We have certain zones which are Hindi regions and certain zones which are non-Hindi regions. Sometimes what happens is, when a Member is staying in the Hindi region, through the mistake of the office, sometimes the letters goes in Hindi.

SHRIMATI PARVATHI KRISHNAN: We, the Members of Parliament, stay in Delhi. How does Delhi become a Hindi region for us?

PROF. MADHU DANDAVATE: Through the mistake of the office, two or three letters might have gone in Hindi to Shrimati Parvathi Krishnan. I have given instructions in the past and I will give instructions once again that special care should be taken to see that not a single letter goes to Shrimati Parvathi Krishnan in Hindi. I give you that assurance.

16.33 hrs.

SPECIAL COURTS BILL—Contd.

MR. SPEAKER: Now we come to the Special Courts Bill. There are some amendments to be moved.

SHRI C. M. STEPHEN (Idukki): I move;

‘Page 3, line 35,—

after “Special Court” insert—

“and may, for the said purpose, direct that a Special Court be constituted” (132).

This is an amendment to clause 10.

MR. SPEAKER: Mr. Anant Dave, are you moving your amendment No. 134?

SHRI ANANT DAVE (Kutch): I am not moving my amendment.

MR. SPEAKER: Mr. Stephen, Are you moving your amendment No 133 to clause 11.

SHRI C. M. STEPHEN: I am not moving my amendment No. 133. I am moving other amendments to the Preamble.

I move;

Page 1, lines 8 to 10,—

omit "AND WHEREAS investigations conducted by the Government through its agencies have also disclosed similar offences committed during the period aforesaid;" (130)

Page 1, lines 13 to 16,—

omit "during which a grave emergency was clamped on the whole country, civil liberties, were withdrawn to a great extent, important fundamental rights of the people were suspended, strict censorship on the press was placed and judicial powers were crippled to a large extent" (131)

SHRI A. K. ROY (Dhanbad): From Clause 8 onwards, I would like to move my amendments

MR. SPEAKER: Last time when the amendments were moved, you were not present. They are already rejected. We cannot help it now. You have not given any fresh notice now.

SHRI A. K. ROY: Now you are allowing others

MR. PEAKER: For them, the notices have been given yesterday. Now I am dealing with them only. You cannot move your amendments now.

SHRI O. V. ALAGESAN: My amendment to the Preamble is there.

Clause 8—(Jurisdiction of Special Courts as to joint trials)

MR. SPEAKER: You have already moved that.

Now we take up Clause 8. Amendment No. 43 had been moved by Mr. Shankaranand.

SHRI B. SHANKARANAND (Chikkodi): Amendment No. 43 is in view of Amendment No. 98, which also has been moved by me.

MR. SPEAKER: It is the same as No. 83.

SHRI B. SHANKARANAND: Amendment No. 98 reads:

Page 3, line 7, —

omit "in respect of which a declaration has been made".

If this is not accepted, then my Amendment No. 43 comes. Since I am opposed to giving power to the Government to make a declaration, as envisaged in clause 5, I have moved Amendment No 43, substituting clause 8

MR. SPEAKER: Amendment No 98 is not moved: it is the same as Amendment No 83.

SHRI B SHANKARANAND: I have moved Amendment No 43 which runs like this:

Page 3,—

for clause 8, substitute—

8. A special Court shall have no jurisdiction to try any person or persons for the commission of an offence except under the provisions of the Code."

This is a very simple amendment. I need not repeat my argument. From the beginning, I am opposed to this authority of the Government of making a declaration under clause 5.

MR. SPEAKER: You have already dealt with that.

SHRI B. C. KAMBLE (Bombay-South-Central): So far as my amendment is concerned, it relates to getting a clarification with regard to territorial jurisdiction. What shall be

the jurisdiction of a special court which will be established either at Delhi or at any State capital, whether such a special court will have the power to take cognizance throughout India or whether that will be confined to the territory of that State alone where a High Court judge has been designated to work as a special court.

Similarly, if the offences have taken place within the territory of that State, whether only that Court will take cognizance and try or whether any special court can take cognizance anywhere throughout India. That is not clear. So far as the Constitutional framework is concerned, a High Court Judge cannot take cognizance beyond the territory of that particular State I want to know whether you are going to amend the position which is in the constitution of India or which is under the Criminal Procedure Code. The purpose of the amendment is to seek that clarification. Otherwise, there will be an utter confusion so far as the jurisdiction of different special courts is concerned. The different special courts, I do not know whether, they are two or three, will clash with each other; different High Courts will clash with each other. The purpose for which this Bill has been brought forward, namely, speedy trial, will be very much defeated. You will not have speedy trials at all. Therefore be clear in your mind. What is it that you intend to do. That is my amendment.

THE MINISTER OF HOME AFFAIRS (SHRI H. M. PATEL): The amendment which Mr. Shankaranand has put forward seeks to substitute for clause 8 a totally new clause.

Clause 8 of the Bill provides for the jurisdiction of the special court to try any person concerned in the offence in respect of which a declaration has been made, either as principal,

conspirator or abettor and all other offences and accused persons as can be jointly tried there-with. The intention behind Mr. Shankaranand's new Clause is not very clear. The existing Clause 8 will have the effect of bringing within the jurisdiction of the special Courts such persons connected with an offence in respect of which a declaration has been made and so they do not qualify as holders of political or public offices. The new Clause will have the effect of excluding from the jurisdiction of the Special Courts this category of persons. If, on the other hand, Mr. Shankaranand's intention is merely that the Special Courts would be governed by the provisions of the Code of Criminal Procedure relating to joint trials that is already provided for in the existing Clause 8 of the Bill, and the amendment is not necessary.

In so far as Mr. Kamble's point is concerned, he would like a special court for each state. That would be unnecessarily expensive. There may be no case at all or may be one case; that is why we have taken the general position that there should be as many special Courts as are necessary.

MR. SPEAKER: I shall now put Amendment No. 43 by Shri Shankaranand to the vote of the House.

*Amendment No. 43 was put and negatived.*

MR. SPEAKER: Mr. Kamble, are you withdrawing your Amendments Nos. 82 to 84?

SHRI B. C. KAMBLE: Yes.

*Amendments Nos. 82 to 84 were, by leave withdrawn.*

MR. SPEAKER: Now, the question is;

*"That Clause 8 stand part of the Bill".*

*The motion was adopted*

Clause 8 was added to the Bill.

**Clause 9 (Procedures and Powers of Special Courts)**

**MR. SPEAKER:** Mr. Nayak, are you Pressing your amendment No. 9?

**SHRI LAXMI NARAIN NAYAK (Khajuraho):** No, I would like to withdraw it.

*Amendment No. 9 was, by leave, withdrawn.*

**MR. SPEAKER:** Mr. Shankaranand, you can speak on both your Amendments Nos. 44 and 99 together.

**SHRI B. SHANKARANAND:** I will speak on them together.

As I have told you, this clause provides for pardoning a person who may be an agent of the Prosecutor or of Government because that person is most likely to be clubbed together with the main persons who, in the view of the Government, are to be punished. They may club any person along with the main person as a co-accused and get a pardon. They only want to get evidence which is necessary for them to convict a person. The House may kindly see. On page 1 of the Bill, the first para of the Preamble reads as follows:

"Whereas Commissions of Inquiry appointed under the Commissions of Inquiry Act, 1952 have rendered reports disclosing the existence of *prima facie* evidence of offences committed by persons who have held high public or political offices in the country and others connected with the commission of such offences during the operation of the proclamation of Emergency..."

**MR. SPEAKER:** You may emphasize your point.

**SHRI B. SHANKARANAND:** My point will be more relevant with reference to Clause 9 now. The Government does not want to declare their intention to punish those people who are termed as 'others' in the Preamble; that can be seen from Clause 8.

Clause 5 reads:

"If the Central Government is of opinion that there is *prima facie* evidence of the commission of an offence alleged to have been committed during the period mentioned in the preamble hereto by a person who held high public or political office in India..."

Here, the 'others' who are mentioned in the preamble do not find a place in Clause 5.

It is most likely that Government may play mischief by adding these persons as co-accused with the main persons and extracting favourable evidence from them under Clause 9 saying this: "We are going to pardon you; you will be let off, but say this. That is why an express provision for pardoning has been made in this Bill. The Clause refers to sections 307 and 308 of the Criminal Procedure Code. Please see sub-clause (2) of Clause 9 in this Bill:

"A Special Court may, with a view to obtaining evidence of any person suspected to have been directly or indirectly concerned in, or privy to an offence, tender a pardon to such person on condition of his making full and true disclosure of the whole circumstances within his knowledge relating to the offence and to every other person concerned whether as principal, conspirator or abettor in the commission thereof..."

Sir, you have wide experience as judge of the Supreme Court...

**MR. SPEAKER:** But all that is not available when I am Speaker.

**SHRI SHANKARANAND:** I am not here to say that you have forgotten everything; it is as fresh as it was...

**SHRI C. M. STEPHEN:** He cannot make the benefit of that available to you. That is what he says.



**SHRI B. SHANKARANAND:** This Clause mentioned two categories of persons: 'tender a pardon to such person' this is one category; and '...and to every other person concerned....' this is another category. These two categories of persons do not find place in Clause 5 of the Bill. Why? What is the intention of the Government? More so, when you have quoted section 307 and 308 of the Criminal Procedure Code. That is why, earlier, I had moved that the provisions of the Cr. P. C. should govern the trial of such persons by the Special Court. But the Home Minister did not accept my amendment. I will read, for the benefit of the House, section 306, sub-clause (1):

"With a view to obtaining the evidence of any person supposed to have been directly or indirectly concerned in...."

Why I am reading this is because the wording in the Bill is not 'supposed to have' but 'suspected to have..' See how they have changed the words. Here in sub-clause (2) of Clause 9 of the Bill they say:

"A Special Court may, with a view to obtaining evidence of any person suspected to have been directly or indirectly concerned in..."

But in sub-section (1) of section 306 of the Cr. P. C. the wordings are:

"With a view to obtaining the evidence of any person supposed to have been directly or indirectly concerned in...."

What is the intention of the Government, I do not know. Maybe, Mr. Jethmalani may be knowing. The Home Minister also may not be knowing. It was mainly on the Bill that Mr. Jethmalani moved that Government has brought this. Otherwise, Government never thought of bringing such a Bill.

**SHRI HARI VISHNU KAMTH** (Hoshangabad): Between 'supposed' and 'suspected' which is vaguer, I do not know, I am not sure.

**SHRI B. SHANKARANAND:** It is for the Government to say.

**SHRI C. M. STEPHEN:** Why not take the same wording as in the Code?

**SHRI HARI VISHNU KAMATH:** You give your opinion as to which is vaguer.

**SHRI B. SHANKARANAND:** If the law is clear why should they bring in this clause again? I have never seen such a thing. There are many criminal law amendment Bills and other laws which have been passed by this House. Is there any law which expressly provides some provision in the Bill saying, 'You give me the evidence which I want, then I will pardon you.' Is there any such thing? ....

**SHRI DINEN BHATTACHARYA:** In your regime it took place.

**SHRI B. SHANKARANAND:** Not in this way.

**SHRI DINEN BHATTACHARYA:** In other ways.

**SHRI B. SHANKARANAND:** So you want to do it legally?

**MR. SPEAKER:** Let us not divert ourselves.

**SHRI B. SHANKARANAND:** Mr. Bhattacharya does not know law. Neither his government nor his Party do not know law. If they come into power, I do not know whether this Constitution or the courts will be alive because they do not know law.

**SHRI K. LAKKAPPA (Tumkur):** You will always be an accused. ....  
(Interruptions)

**MR. SPEAKER:** Please. Let us go on. Let us not divert ourselves. Mr. Shankaranand, you are on a legal point. Please proceed.

**SHRI B. SHANKARANAND:** The CPI (M) are supporting the government. Sir, I wish they support them always. But I told you the CPI (M) are fattening themselves on the free pasture provided by the Janata Party. Let them avail of it, ....

**MR. SPEAKER:** Let us not divert ourselves.

**SHRI B. SHANKARANAND:** On the mistakes of the Janata Party they are fattening themselves. That is why they want to encourage the Janata Party to commit more mistakes...

**SHRI DINEN BHATTACHARYA:** You will know it in proper time. Have patience.

**MR. SPEAKER:** All these are mutual compliments.

**SHRI C. M. STEPHEN:** Whatever he says is going on record and that is why he has to react.

**SHRI K. LAKKAPPA:** Let him change the legislation. What is there? Why should there be any hurry?

**SHRI B. SHANKARANAND:** Sir, I was reading Section 307 and 308. They elaborately deal with the question of pardoning an accused on his tendering or giving some evidence. It is elaborate and it deals with all the aspects of the law which is required for the administration of justice, whereas it is the intention of the government that by providing this... (Interruptions). The intention of the Bill is to try a certain category of persons, a class of persons who held high public and political offices. The purpose is very clear. ...

**SHRI K. LAKKAPPA:** What is a political offence?

**MR. SPEAKER:** Order, order, please. Let there be no conversation here... Mr. Shankaranand is very sensitive to the other talk.

**SHRI ARAVIND BALA PAJANOR (Pondicherry):** I do not know, Sir. It is nearing 5 O'clock. We are having

a meeting. The Minister of Parliamentary Affairs is also on the Committee. I do not know whether you are going to have the voting...

**SHRI K. LAKKAPPA:** The Committee meeting cannot be postponed. You take it next time. What is there?

**SHRI B. SHANKARANAND:** My elaboration on this point is more necessary in view of sub-clause (3) which says:

"Save as expressly provided in this Act; the provisions of the Code in so far as they are not inconsistent with the provisions of this Act, .."

In what way are they consistent with the provisions of this clause. If they are inconsistent why is such a provision being made? I want to know from the Home Minister. If there is anything inconsistent, why is such a provision being made by the government in this Bill?

Sir, certainly it is not with good intentions. The intention of the government is *mala fide* and they have particularly Mr. Gandhi in their view. They have been trying to nullify the hold that Mrs. Gandhi has on the masses of this country, the confidence that the masses have in Mrs. Gandhi which they are not able to shake and they tried to put her in jail and they have put her in jail also. Sir, this Bill has only Mrs. Gandhi in view and they are providing everything... (Interruptions)

**AN HON. MEMBER:** Not only Mrs. Gandhi but all her collaborators.

**SHRI B. SHANKARANAND:** So, Sir, Janata Party is expressly confessing before this House that this Bill is meant for her.

Sir, I am opposed to providing such an authoritarian power to government where any person can extract any

evidence from a witness in order to involve Mrs. Gandhi. At this point, I cannot resist myself from expressing that such a thing has happened during the Shah Commission proceedings and officials had brought pressure on the witnesses to give evidence which they wanted and which was necessary for them to involve Mrs. Gandhi. My point is if such an offence is committed by any officer, then those officers should also be tried. Such a provision is necessary. So, I appeal to the House not to give this power to the government, otherwise there is more danger of this clause being misused than used against any person whether guilty or not guilty. I hope the Hon. se will accept my amendment.

MR. SPEAKER: Mr. Kamath, you have got amendment No. 53.

SHRI HARI VISHNU KAMATH: Mr. Speaker, Sir, I have an amendment to sub-clause (2) of Clause 9 seeking to substitute "all the" for "the whole". It is a Verbal amendment but as observed on the last occasion, a couple of days ago, I love words in my own way. I am a linguophile and not a linguophobe nor a linguomaniac. All languages and words I love. Sir, sub-clause (2) of Clause 9, line 4 reads as follows:

"...making full and true disclosure of the whole circumstances within his knowledge...."

For "the whole" circumstances I wish to substitute "all the" circumstances. When I tabled this amendment I had in mind an incident which took place in the Third Lok Sabha. At that time, unfortunately, you were not here. There was a Bill where the draft clause had a word 'vermins' in it. I tabled an amendment seeking to substitute 'vermins' by the word 'vermin'. I said the plural is also 'vermin', and I requested the Chair that a dictionary

may be called for to settle the point. He said there was no need to call for the dictionary and that he would put it to the vote of the House. It was put to the vote and passed as 'vermins'. Even today that word disfigures the Act. I suppose, Sir, I am not a legal expert. I do not know the legal language. You are a master of that language.

Sir, if you in your present capacity and with your past wisdom as a lawyer and as a judge hold that the phrase 'whole circumstances' is permissible and is permitted in legal enactments, I would have no objection, but it jars on the ear. It should be all the circumstances, not the whole. When you use, the 'whole', it may refer to the whole day, whole man. It should be singular, not plural noun. I do not know whether you would agree and would give us your guidance sitting under that illumined dharamchakra.

I commend my amendment for acceptance.

17 hrs.

SHRI B. C. KAMBLE: Sir, I have moved only two small amendments.

My first amendment is No. 86. Legally, the special court is deemed to be a sessions court, but the functionary who is to function is a high court judge. When a high court judge is functioning there by virtue of his office that will have the status of high court, but legally under the provisions of sub-clause (3), it is to be deemed as a sessions court. Thus, there will be a sort of contradiction. I have, therefore, proposed that the special court will have the powers including the powers of a sessions court. That ambiguity will go by my amendment.

Regarding my second amendment, now the intention is that they want to apply what is called the warrant procedure as prescribed in the Cri-

[Shri B. C. Kamble]

iminal Procedure Code. It has been put in sub-clause (1):

"A Special Court shall in the trial of such cases follow the procedure prescribed by the Code, for the trial of warrant cases before a magistrate."

What I have suggested by my amendment is that substitute this with:

"A Special court shall in the trial of such cases follow, 'warrant procedure' prescribed or trial of warrant cases before a magistrate as laid down in the Code of Criminal Procedure."

This is a change of words and expressions.

These are my two amendments. Government should give due consideration because in one case there is contradiction and in the other case, there is some confusion by the expression and words used here.

SHRI H. M. PATEL: I cannot, of course, emulate Shri Shankaranand's eloquence, but I am afraid, his whole argument is based on attributing certain intentions and motives to us which really do not exist. His amendment is not therefore acceptable.

The point is that a special provision on the lines of clause 9(2) of the Bill has become necessary because according to the scheme of the Bill, a special court has the powers of a court of sessions. Under the Code of Criminal Procedure, a court of sessions can exercise power of pardon only after the case has been committed to it. Since there is no provision for committal of cases to special courts, the provision on the lines of clause 9(2) becomes necessary and it is on the same lines as Section 8(2) of the Criminal Law Amendment and Section 8(6) of the Disturbed Areas Act. Incidentally, he mentioned and talked about as to what this new expression

'suspected' is. He might know that Clause 6, sub-clause 6 of the Disturbed Areas Act says

"...a special court may with a view to obtaining the evidence of any person suspected to have been..."

So, it is not a new innovation, so far as this Bill is concerned. If amendment No. 99 is not acceptable, amendment No. 44 really falls through.

In so far as Mr. Kamble's point is concerned, I am afraid that the words 'deemed to' are also necessary.

What the hon. Member seems to think is that a Special Court shall be deemed to be a Court of Session; and, therefore, he wants to provide that a Special Court shall be deemed to be a court having all the powers of the Court of Session. As the deeming provision is only for the purpose of spelling out expressly the manner in which the provisions of the Code apply in relation to Special Courts, the deeming provision cannot be regarded in any way derogatory. It is necessary for clarity; and I think we should not sacrifice clarity, for the sake of any sentiments. I, therefore, cannot accept his amendment.

As far as Mr. Kamath is concerned, I would say that on the face of it Mr. Kamath is very persuasive and he is very correct—one would say that it should be so. But I would say that there is a history to it. This amendment relates to Clause 9(2) of the Bill. The word 'whole' has been used uniformly in similar provisions occurring in the Code of Criminal Procedure 1973, Section 306, the Criminal Laws (Amendment) Act, 1952, and the Disturbed Areas Act, 1976. While the amendment suggested by Shri Kamath may appear to be of importance, it would not be desirable to accept it, because it will result in different phraseology being used in the Code of Criminal Procedure and

other connected enactments; and we would be losing....

MR. SPEAKER: A wrong phraseology has gained respectability by usage.

SHRI H. M. PATEL: It is there.

MR. SPEAKER: Mr. Kamath are you pressing your amendment?

SHRI HARI VISHNU KAMATH: I am not.

*Amendment No. 53 was, by leave, withdrawn.*

MR. SPEAKER: I now put Mr. Shankaranand's amendments Nos. 44 and 99.

*Amendments Nos. 44 and 99 were put and negatived.*

MR. SPEAKER: Now Mr. Kamble, are you pressing your amendments Nos. 85 and 86?

SHRI B. C. KAMBLE: No

*Amendments Nos. 85 and 86 were by leave, withdrawn.*

MR. SPEAKER: The question is:

"That Clause 9 stand part of the Bill."

*The Motion was adopted.*

*Clause 9 was added to the Bill.*

*Clause 10—(Powers of Supreme Court to transfer cases)—contd.*

MR. SPEAKER: Now we take up clause 10. There is only one amendment No. 132, by Mr. Stephen.

SHRI C. M. STEPHEN: In respect of amendment after amendment, we have been hearing the reply of the Home Minister, with a very cryptic and categorical 'No'. Therefore, normally I should have hesitated to move this amendment, because I should have expected what the fate of the

amendment would be; but I felt induced or prompted to move this amendment, because this is of a different category.

The Home Minister has been saying that as this Bill had gone through the Supreme Court, any change may create difficulties here; and therefore, he is not accepting any amendment. That is what he said the other day. This particular clause has been introduced pursuant to a proposal by the Supreme Court. Therefore, this clause as such was not examined by the Supreme Court. Supreme Court made certain suggestions. Government told them: "We are prepared to accept those suggestions", and pursuant to that, this has been brought in. The point is whether the suggestion by the Supreme Court has been fully incorporated into this clause which has been framed. According to me, no. Now, this clause says that the Supreme Court may, in appropriate cases, order the transfer of cases from one Special Court to another Supreme Court. Let us remember that there are not going to be umpteen Special Courts; may be 1 may be 2, or may be 3. Because the hon. Minister says, 'adequate number' no more, no less. Unless there are going to be a million cases, there may not be a large number of special courts. If there is only one special court, where is the transfer? If there are only two special courts, where is the choice? Therefore, I have suggested that in appropriate cases the Supreme Court may direct the constitution of special courts. Looking through the different special courts, if the Supreme Court feels satisfied that none of the special courts will serve the purpose the Supreme Court may direct the government to constitute a special court. The majority opinion says why they make the suggestion:

"In the first place there is no provision in the Bill for the transfer of

[Shri C. M. Stephen]

cases from one special court to another. The manner in which the Judge conducts himself may disclose bias in which case natural justice would require that the trial of the case ought to be withdrawn from him. There are other cases in which a Judge may not in fact be biased; yet the accused may entertain a reasonable apprehension on account of attendant circumstances that he may not get a fair trial. It is of the utmost importance that justice must not only be done but must be seen to be done. To compel an accused to submit to the jurisdiction of a court which in fact is biased or is reasonably apprehended to be biased is a violation of the fundamental principle of natural justice and denial of fairplay. There are yet other cases, in which expediency or convenience may require the transfer of a case even if no bias is involved. The absence of provision for transfer of trials in appropriate cases may underline the very confidence of the people in special courts as an institution set up for dispensation of justice."

The point is whether this requirement has been met by this limited provision. The Supreme Court says that unless there is provision authorising the Supreme Court to direct the government to constitute special court to which the case may be transferred, it is not complete and this clause can become infructuous. There are two stages: one, the Supreme Court making up its mind as to whether a court trying a case is or is not biased, secondly, even if there is no bias, whether the accused has apprehension that it has bias; and then even if there is no apprehension, circumstances may demand that the case be transferred. Then the second stage comes where there is order for transfer. Therefore if things are left as they were blank, we get stuck up in a sort of vacuum and the clause becomes absolutely infructuous.

Therefore, if you honestly believe that the suggestion of the Supreme Court is bona fide and you accept the suggestion, it ought to legitimately follow that this amendment be brought in so that it may be comprehensive enough to ensure that this clause does not remain verbal and perfunctory exercise and it is a statutory provision. I therefore suggest in all seriousness to incorporate the suggestion made by the Supreme Court. The clause as it does not reflect the intendment of the Supreme Court. If Supreme Court's intendment is to be implemented the amendment which I propose is absolutely necessary. I hope the Minister will not come up with the reply with which I have now become habituated, that there is absolutely no necessity and that this matter went to the Supreme Court, for the simple reason that it never went to the Supreme Court. My amendment is necessary to implement the proposal of the Supreme Court.

SHRI H. M. PATEL: Let me not come with reply which the hon. Member expects. I will give a slightly different one. This amendment is to direct the constitution of the special court. No suggestion to this effect has been made by the Supreme Court in its advisory opinion. The Supreme Court suggested a provision for transfer and it has been made in clause 10.

The Amendment, if accepted, will fetter the power of the Central Government under Clause 3(1) which already provides that adequate number of special courts shall be constituted. Since the adequate number of special courts will be constituted, there will be no difficulty in the Supreme Court in transferring any case from one special court to another special court.

The amendment may not (interruption). Why, not? Because there will not be one special court. There may be several special courts. I think what the Supreme Court had in mind will be definitely achieved by this clause.

**MR. SPEAKER:** I shall now put amendment, No. 132 to Clause 10 moved by Shri C. M. Stephen to the vote of the House.

*Amendment No. 132 was put and negatived.*

**MR. SPEAKER:** The question is:

"That Clause 10 stand part of the Bill".

*The motion was adopted.*

*Clause 10 was added to the Bill*

**Clause—11—(Appeal)**

**MR. SPEAKER:** Now we come to Clause 11.

There is an amendment No. 100 which has been moved by Shri B. Shankaranand.

**SHRI B. SHANKARANAND:** My amendment reads:

"Page 4,—

for clause 11, substitute—

11. *Appeal and revision*—Provision of the Code shall apply for any appeal or revision from the decision of a Special Court as if from a Court of Sessions". (400)

Since the Special Courts have to be presided over by the High Court Judge, it is deemed to be a Sessions Court.

Please refer to Clause 3(3) of the Bill which reads like this—

"Save as expressly provided in this Act, the provisions of the Code shall, in so far as they are not inconsistent with the provisions of this Act, apply to the proceedings before a Special Court and for the purposes of the said provision of the Code Special Court shall be deemed to be a Court of Session and shall have all the powers of a

Court of Session and the person conducting a prosecution before a Special Court shall be deemed to be a Public Prosecutor."

This is going to be a Sessions Court. Then how can there be any appeal to the Supreme Court right from the Sessions Court directly?

**MR. SPEAKER:** That is permissible even now under Article 136.

**SHRI B. SHANKARANAND:** That is an extraordinary thing. That is why I have given my amendment.

**MR. SPEAKER:** You wanted appeal and revision. Then the whole complexion of the Bill changes.

**SHRI B. SHANKARANAND:** In view of all my amendments I have to stress this amendment. Otherwise, my amendments will have no meaning.

**MR. SPEAKER:** You have taken a consistent stand.

**SHRI B. SHANKARANAND:** Yes, yes. I have suggested 23 amendments. All these amendments will have no meaning if I do not make this amendment to the clause. It reads like this—

"Provisions of the Code shall apply for any appeal or revision from the decision of a Special Court as if from a Court of Sessions."

Because the Special Court is deemed to be the Sessions Court in the eye of law, as proposed in this Bill, I say let not the Home Minister get himself confused with all these complications with the jurisdiction of the court, the authority to pardon and what not. He says the Supreme Court Judge should preside and it should be a Sessions Court. The law is very clear. Let the Special Court try every person as per the provisions of the Cr.P.C. He has confused the House. He has confused himself and let him not confuse everybody. Mr. Home Minister, I am sure,



[Shri B. Shankaranand]

every section of the Act will be challenged in the court before you do anything under the provisions of the law. I say, do not confuse everybody. You please accept my amendment.

SHRI H. M. PATEL: Since the hon. members thinks I am confused, I think the House might accept the position that they have to be confused all through, I propose to press for whatever I have come here. He says that the appeal from the Special Court should lie to the High Court. That is all he wants.

MR. SPEAKER: Appeal or revision.

SHRI B. SHANKARANAND: There is lot of difference between appeal and revision.

SHRI H. M. PATEL: I know, though I have not got that much clarity as a distinguished lawyer....

SHRI B. SHANKARANAND: I do not say you do not know. I only say don't behave as not knowing.

SHRI H. M. PATEL: I am at the moment endeavouring to say what degree of clarity there is in your proposition. I am only confining myself to that. It seems to me that the hon. member is really confused because he has got a definite objective whereas my objective is to see that a fair trial is obtained through special courts and as speedily as possible. Clause 11 seeks to provide that an appeal, shall lie from the judgment of the special court to the Supreme Court both on facts and on law. This has been suggested in order to expedite the trial of offences by the special court, because the special court will consist of High Court judges. The amendment, therefore, is not acceptable.

MR. SPEAKER: I shall now put amendment No. 100 by Shri Shankaranand to the vote of the House.

The amendment No. 100 was put and negatived.

MR. SPEAKER: Now I will put the clause.

SHRI H. M. PATEL: There is another amendment by Mr. Stephen.

MR. SPEAKER: He has not moved it.

The question is:

"That clause 11 stand part of the Bill."

The motion was adopted.

Clause 11 was added to the Bill.

Clause 12— (Power to make rules).

SHRI HARI VISHNU KAMATH: I have four amendments Nos. 54, 116, 127 and 128. Three of them are substantial amendments and one is a verbal amendment. I shall speak on the verbal amendment first.

I am aware that the Minister can confront me with some previous enactments and say that this is what has been used in previous enactments. I am however, ready to face that confrontation. I have got with me three Bills introduced in this House by different Ministers on different occasions—The Press Council Bill, which is now an Act; the Air (Prevention and Control) Pollution Bill, 1978 introduced by my hon. friend and colleague, Shri Sikandar Bakht and the Mental Health Bill introduced by Shri Raj Narain, I believe in 1978. I have got copies of all these three Bills. When incorporating such a clause, these three Bills use the phrase not "for the purposes of this Act" but "for carrying out the purposes of this Act". This clause 12 says that the Supreme Court may make rules "for the purposes of this Act". In all the three Bills I have mentioned—the Minister may check if he wants—the phrase

used is either "to carry out the purposes of this Act" or "for carrying out the purposes of this Act". I would not waste the time of the House by speaking further on that; I believe in the common sense and intelligence of all the Ministers, including the Home Minister and therefore, I hope he will accept it. If you also endorse it and approve of it, there will be no difficulty in accepting it. It should not be just for the purposes of this Act, but for carrying out the purposes of this Act. "For the purposes of this Act" is delightfully vague. "To carry out" or "for carrying out" the purposes of this Act is more accurate and precise.

I come to the substantial amendments. I am not sure that we should cast a burden upon the Supreme Court to frame rules for carrying out the purposes of this Act. I know that the Memorandum on Delegated Legislation appended to the Bill refers to Section 643 of the Companies Act, 1956. Therein it is stated that this Section 643 of the Companies Act confers power on the Supreme Court to make rules with respect to certain matters. I do not know whether these certain matters cover an important Bill like the Special Courts Bill which is before the House. Therefore, I would personally prefer that the rules are made by the Central Government in concurrence with the Supreme Court or rather in consultation with the Supreme Court, because at some stage if somebody takes it into his head to challenge the Act and the rules and goes to the Supreme Court and if the Supreme Court itself has framed the rules, that would be an awkward position for the Supreme Court....

MR. SPEAKER: They have struck down their own rules.

SHRI HARI VISHNU KAMATH: I submit to your superior wisdom and your experience and in that case, I have nothing to say. If they strike down their own rules, that means they are killing their own child.

MR. SPEAKER: Once, they act on the administrative side and on the

other occasion, they act on the judicial side. They frame the rules without legal assistance and decide the case after listening to the lawyers.

SHRI HARI VISHNU KAMATH: In your time, Sir, or later?

MR. SPEAKER: A long time back.

SHRI HARI VISHNU KAMATH: But even so, I think it would be wiser for the Central Government to do it because all the Bills and delegated legislation is the responsibility of the Central Government mostly. I do not know whether in certain enactments, the rules have been made by some authority other than the Central Government whether there have been precedents, and they have been quoted as authority. You just now said that something wrong had been perpetrated on an earlier occasion in the enactment and the wrong phrase can continue! So also if a wrong may continue in this too, I have no objection. But as far as it is within human power, we should do the right thing if we can.

MR. SPEAKER: Mr. Kalyanasundaram has already moved an amendment but he is not there. I shall now put amendment No. 59 to vote.

*Amendment No. 59 was put and negatived.*

SHRI B. C. KAMBLE: So far as the rule making power is concerned, I have made a distinction between the two purposes—the purpose of the Act and the proper functioning of the special courts. So far as rule making power for the purposes of the Act is concerned, it cannot be vested in a judiciary. This must be exercised by Government. Government cannot delegate that power. The administration of the Act is not the business of the judiciary. Therefore, if rule making power, delegated power is to be given, that can be given to the Supreme Court so far as the proper functioning of the special court is concerned. I have moved an amendment, making a distinction. Instead of loading the Supreme Court with that responsibility

[Shri B. C. Kamble]

it should be performed by the Government. Therefore, I have moved this amendment. I seek a clarification. I am not pressing my amendment.

SHRI H. M. PATEL: So far as Shri Kamble's amendment is concerned, I am not accepting it.

SHRI DINEN BHATTACHARYYA: Why? He is only asking for a clarification.

SHRI H. M. PATEL: I am not accepting it. If he wants to know the reason, since the Special Courts will be manned by sitting Judges of the High Court, as a matter of policy it would be better to leave it to the Supreme Court to make rules. That is how it appears to us.

MR. SPEAKER: What about amendment No. 54?

SHRI H. M. PATEL: So far as amendment No. 54 is concerned, if it is accepted, the clause will read:

"The Supreme Court may, by notification in the Official Gazette, make such rules, if any, as it may deem necessary for carrying out the purposes of this Act."

I am prepared to accept it, because it is a reasonable one.

MR. SPEAKER: What about Amendments Nos. 127 and 128?

SHRI H. M. PATEL: I am not able to accept them.

MR. SPEAKER: The question is:

"Page 4, line 7, after 'for' insert 'carrying out' (54)."

*The motion was adopted.*

MR. SPEAKER: Mr. Kamble, are you pressing your amendments?

SHRI B. C. KAMBLE: No, Sir. I want to withdraw them.

MR. SPEAKER: Has the hon. Member the leave of the House to withdraw his amendments?

SEVERAL HON. MEMBERS: Yes.

*Amendment Nos. 87 and 88 were, by leave, withdrawn.*

MR. SPEAKER: I now come to amendment Nos. 127 and 128.

SHRI HARI VISHNU KAMATH: Why should the Supreme Court be tied down with the framing of rules? Sir, you know.

MR. SPEAKER: I am not commenting on the Supreme Court; far from it. I would prefer that the Government do it; that is another matter. Now has Shri Kamath the permission of the House to withdraw his amendments?

SEVERAL HON. MEMBERS: Yes.

*Amendments Nos. 127 and 128 were, by leave, withdrawn.*

MR. SPEAKER: The question is.

"That clause 12, as amended, stand part of the Bill".

*The motion was adopted.*

*Clause 12, as amended, was added to the Bill.*

Clause 13(New)

MR. SPEAKER: Shri Kalyanasundaram has moved an amendment for the introduction of new clause 13. But he is not present here. So, I will now put amendment No. 60 to the vote of the House.

*Amendment No. 60 was put and negatived.*

SHRI HARI VISHNU KAMATH: Sir, I have moved my amendment No. 116, which reads:

"Page 4, after line 8, insert—

"13. Every notification made under clause sub-section (1) of section 8.

every declaration made under sub-section (1) of section 5, and every rule made under section 12 shall be laid, as soon as may be after it is made, before each House of Parliament." (116) -

It is essential for ensuring the vigilance of Parliament over all legislation, including delegated legislation. I am reminded of what happened in the Constituent Assembly when the emergency provisions were on the anvil. One of the draft articles which was brought in the Constituent Assembly had no such provision. Among the numerous amendments which I had moved to those emergency provisions, most of which were slaughtered by the Assembly

AN HON MEMBER: Guillotined.

SHRI HARI VISHNU KAMATH: There was only one which was accepted. There was only one which Dr. Ambedkar, the Chairman of the Drafting Committee, the pilot of the Constitution Bill, accepted and that one is now incorporated as clause (2) of Article 354, and that reads as follows -

"Every order made under clause (1) shall, as soon as may be after it is made, be laid before each House of Parliament."

And that was the only amendment which Dr. Ambedkar and the Constituent Assembly ultimately accepted. Mr. Alagesan smiles in approval. (Interruptions). Mr. Patel was not there at that time, but Mr. Alagesan was there. He very well remembers

Now, Sir, it is essential, and I am sure you will agree, knowing as I do your great anxiety to preserve and promote the role of this supreme legislative forum as the vigilant protector of all the rights and privileges of Parliament, as the watch-dog of all these privileges and rights, that all legislation including delegated legislation should come before the House and this notification provided under clause 12; then clause 3 and clause 5—all these will form part of delegated legislation under this important Bill, a vital

Bill which will affect several offenders of the Emergency period, and it is, therefore, essential that Parliament should keep a watch, a strict watch, and a sleepless watch, over such legislation.

MR. SPEAKER: Mr. Kamath, if I may intervene, there is some little incongruity in "every rule made under section 12". Earlier the House has agreed that the rules shall be made by the Supreme Court. If that is so, if that remains...

SHRI HARI VISHNU KAMATH: Even those rules can be laid.

MR. SPEAKER: ...that would be incongruous. Sitting here the Subordinate Legislation Committee is going into the merits of the rules. (Interruptions). Mr. Kalyanasundaram's amendment mentions only the declaration. "Every notification made under sub-section (1) of section 3, and every declaration made under sub-section (1) of section 5" may be all right. I don't need to add anything.

SHRIMATI PARVATHI KRISHNAN: Mr. Kalyanasundaram's amendment does not refer to the 'rule'. You see, Mr. Kamath's is consequential to his earlier amendment and Mr. Kalyanasundaram's amendment is identical because Mr. Kamath in his wisdom or in his foolishness thought that the Home Minister would be wise enough to accept the first amendment.

SHRI HARI VISHNU KAMATH: I caught the contagion from you.

SHRIMATI PARVATHI KRISHNAN: Mr. Kalyanasundaram's amendment does not refer to the "rule".

(Interruptions)

SHRI H. M. PATEL: Sir, since the hon. Member has conducted such research in this and quoted the authority of what happened in the Constituent Assembly, I think it would be only right that I accept this position but for this point that you have pointed out.

[Shri H. M. Patel]

I think there are two modifications which would be necessary. "Every notification made under 'clause'—the word 'clause' is obviously superfluous it ought to go. "Under sub-section (1) of section 3..."

MR. SPEAKER: Within 15 days—all the restrictions are there. There are other difficulties also.

SHRI H. M. PATEL: It is correct. "every declaration made under sub-section (1) of section 5 and every rule made under section 12"—it is for the Supreme Court which makes. So, omit "clause" and after "section 3" add the word "and" and omit "and every rule made under section 12".

MR. SPEAKER: Shall I read it out again? The amendment is:

"Every notification made under sub-section (1) of section 3, and every declaration made under sub-section (1) of section 5, shall be laid, as soon as may be after it is made, before each House of Parliament."

SHRI H. M. PATEL: I accept that.

MR. SPEAKER: Will it satisfy?

SOME HON. MEMBERS: Yes.

SHRI C. M. STEPHEN: Mr. Kamath has moved an amendment. The Home Minister has accepted it in an amended form but there is a procedure for that. He has to move an amendment to the amendment.

MR. SPEAKER: That is what he is doing.

Amendment made:

In Amendment No. 116—

line 3,—

omit "clause";

line 4 after "section 3"—

add "and";

line 6,—

omit "and every rule made under section 12" (135).

(Shri H. M. Patel)

MR. SPEAKER: The question is:

Page 4,—

after line 8, insert—

Notifications under section 3 and declarations under section 5 to be laid before Parliament.

"13. Every notification made under sub-section (1) of section 3 and every declaration made under sub-section (1) of section 5 shall be laid, as soon as may be after it is made before each House of Parliament" (116 as amended):

The motion was adopted.

New clause 13 was added to the Bill

Clause 1—(Short title and extent)

SHRI HARI VISHNU KAMATH: I beg to move:

Page 2, lines 14 and 15,—

omit "except the State of Jammu and Kashmir" (52)

If the amendment is accepted, it will read as follows:

"It extends to the whole of India."

I am aware of article 370 of the Constitution, not that I have overlooked that article which forms part of Part XXI, "Temporary and Transitional Provisions".

Now, the word "Special" has also been added. The original caption was, "Temporary and Transitional provisions".

After 32 years of Independence and in the 30th year after the promulgation of the Republic, we have still got temporary and transitional provisions. There is, however, a helpful corollary to article 370. I do not wish to go deep into the pros and cons, the desirability or the undesirability of this article. This is not the occasion for that. But I would only refer to the proviso in article 370, clause 1, sub-clause (b):

"the power of Parliament to make laws for the said State shall be limited to—

(i) those matters in the Union List and the Concurrent List which, in consultation with the Government of the State, are declared by the President to correspond to matters specified in the Instrument of Accession governing the accession of the State to the Dominion of India as the matters with respect to which the Dominion Legislature may make laws for that State; and

(ii) such other matters in the said Lists as, with the concurrence of the Government of the State, the President may by order specify."

I have got a copy of the Instrument of Accession of Jammu and Kashmir State. It lists the subjects, the matters with respect to which the Dominion Legislature may make laws for the State of Jammu and Kashmir. The subjects are, Defence, External Affairs, Communications—we do not go into that—and the last one is "Ancillary". Under "Ancillary" there are four subjects. I do not know if you have got a copy of the Instrument of Accession. I am reading from the text of that. It says:

"4. Jurisdiction and powers of all courts with respect to any of the aforesaid matters but, except with the consent of the "Ruler of the Acceding State, not so as to confer any jurisdiction or powers upon any courts other than courts ordi-

narily exercising jurisdiction in or in relation to that State."

It is rather complicated and legal parlance; you will appreciate it better than I do. But with all this jargon and abracadabra, the most important part of the provision is, "except with the consent of the Ruler of the Acceding State", that is with the consent of the Government of Jammu and Kashmir, we can do everything, the Parliament can do everything. If I remember aright, everything, the Parliament can do 1975, from which so much evil has flowed, was applied to the entire country, including the State of Jammu and Kashmir and so also the Forty-Second Constitution Amendment Act, the pernicious Act, was applicable to the whole country, including the State of Jammu and Kashmir.

Now, what must have been done in those days—I was partly in jail and partly outside at that time—was perhaps that in that case, the consent of the Government had been obtained. I would like to know, therefore, whether in the case of the Bill, Government has made any attempt to obtain the consent of the Government of Jammu and Kashmir so as to make this applicable to that State also. You are aware that the jurisdiction of the Election Commission and the jurisdiction of the Supreme Court also have been extended to Jammu and Kashmir. If I remember aright in the case of both the Election Commission and the Supreme Court, their jurisdiction has been extended to Jammu and Kashmir. So, what is the snag in this? Why should it not apply to Jammu and Kashmir? Is it because the Government is forgetful or remiss or is unwilling or is unable to extend the jurisdiction of this Bill also to Jammu and Kashmir? Under the Instrument of Accession to the Indian Union, have they made any serious effort at all to persuade or get the consent of the Jammu and Kashmir Government about this legislation? If they have not done so, will they do

[Shri Hari Vishnu Kamath]

so shortly and get it amended also? If they do not want to do so, why do they not want to do so? All these questions must be answered now straightaway; otherwise, there is no reason why it should not be extended to Jammu and Kashmir.

SHRI H. M. PATEL: Shri Kamath suggests that the words "except the State of Jammu and Kashmir" should be deleted from this Clause. In other words, he would like the Act to be extended to the State of Jammu and Kashmir. This is not possible as the provisions of Art. 370 read with Art. 368 will be attracted. The Supreme Court have observed in their advisory opinion that parliament derives its legislative competence for the enactment of the Special Courts Bill from Entry 11-A, 'Administration of Justice' in List III—Concurrent List—of the Seventh schedule. The subject of Administration of Justice, and the constitution and organisation of all Courts excepting the Supreme Court and the High Courts was transposed from List II—State List—to List III by virtue of the 42nd Amendment which has not been extended to the State of Jammu and Kashmir. In other words, in so far as the State of Jammu and Kashmir is concerned, Administration of Justice is not a Concurrent Subject and therefore parliament has no competence to legislate for Jammu and Kashmir so long as the 42nd Amendment of the Constitution continues.

SHRI HARI VISHNU KAMATH: Even with the concurrence of the State Government?

MR. SPEAKER: According to him, even with their concurrence he cannot do it. Now I shall put Amendment No. 52 by Shri Hari Vishnu Kamath to the vote of the House.

Amendment No. 52 was put and negatived.

MR. SPEAKER: The question is:

"That Clause 1 stand part of the Bill."

The motion was adopted.

Clause 1 was added to the Bill.

The Enacting Formula was added to the Bill.

MR. SPEAKER: Now the Preamble. There are a large number of amendments.

Mr. Narasimha Reddy, you have moved Amendment, Nos. 3, 4, 5 & 6 and 7.

SHRI G. NARASIMHA REDDY: (Adilabad): Yes, Sir, I will speak on all of them put together.

The reason for moving my amendments to the Preamble is that, till now, much discussion on the law points of this Bill has taken place.

I would like to say how I, as a person from village, a layman, without knowing law understand this Bill. Then I would give the reasons for moving my amendments. As I understand, the object of the Government in bringing this Bill is only to punish Shrimati Indira Gandhi.

AN HON. MEMBER: No, no.

SHRI G. NARASIMHA REDDY: Allow me to say how I understand it. You may not agree with my understanding. My understanding is that this Bill has been brought only to punish Shrimati Indira Gandhi. The time is very short, that is, only three years are there. Therefore, they would like to hasten it up through this legislation. Otherwise—if they do not do it—after three years they may not be in power.

Therefore my point of view is this. By this Bill only the persons or the political persons who were holding high places in the Government during the Emergency period only are punishable. It means that, after the Emergency period, whoever are the politicians ruling the country today at the Centre or in the States are allowed to do, as I understand, any



excesses or any corrupt practices for which they will not be punishable under this. So, by this, they are opening a dangerous chapter in the democratic Parliamentary system of this country because the Party which is in power will be allowed to do anything they like and they will be punished only when another Party comes to power. That means, the future Government, whichever Party comes to power will have to come with a Special Courts Bill saying that whatever offences were done by the previous politicians or the previous regime, they alone will be tried. Therefore, the people of this country will be forced to think that the Government is interested in trying only their political opponents. If Government want this to be changed—what the people are thinking about this present Government—then they may accept my amendment. I have no objection if they are really interested in punishing all the politicians whoever committed excesses, in future also; whenever there is an Inquiry Commission appointed, if, according to the report of the Inquiry Commission, *prima facie* cases are established against some persons, all such persons—in future also—should be tried under this legislation.

**SHRI HARI VISHNU KAMATH:** I have a series of amendments, 45 to 51, seven amendments...

**MR. SPEAKER:** It is already 6 O' Clock. We shall take it up tomorrow. There is an Half-an-hour Discussion.

18 hrs.

#### HALF-AN-HOUR DISCUSSION

##### SHORTAGE OF COAL

**SHRI EDUARDO FALEIRO (Mormugao):** I have raised a discussion because it does not appear credible to me—what the hon. Minister did say in reply to unstarred question No. 127 answered on 20th February 1979, on which this discussion is based.

The Minister did say that there was no shortage of coal with the coal companies in December 1978 and

January 1979. This was contrary to the reports. *The Financial Express*, just to cite one, did make out a case of such a shortage as late as March 1979, under the caption, 'Coal Output Target Elusive'.

18.01 hrs.

[**SHRI N. K. SHEJWALKAR** in the Chair]

Mr. Chairman, why I say that these figures are not credible is because just in the month of December, the hon. Minister was constrained to admit on the floor of the House that managers of the coal companies had a meeting in his office and that at that meeting in his very office and in his very presence, those managers gave bogus and inflated production figures. On that basis they collected incentives worth lakhs of rupees, possibly crores—I do not know. I would incidentally ask him to clarify what was the amount of incentive disbursed. But he did admit at least in the case of one company that bogus inflated production figures had been produced. He said that he would take action to see that in future such type of inflated and false figures were not given. Now I would like to incidentally know what action he has taken in that regard.

The other reason, which I do not believe and I do not think credible is that there is no shortage.

If there is no shortage and if the shortage with different companies is due to transport, namely, that railway wagons are not available, then, why the Government and the Ministry are not allowing private individuals to take their own trucks to go to the coal fields and collect the produce? They say that there is no shortage. If there is no shortage—why you, or I or the industries cannot go to the coal fields, why not allow private parties to go to the coal mines and collect whatever coal they require? This will be very good in several respects because under the new procedure if you want to get any quantity of coal you have