

[Shri H. N. Bahuguna]

Somebody said that violence was the language of the ruling party. Again, this is a very wild allegation, not having been borne out by facts at all. We have never declared an emergency except when it was absolutely necessary, in the interest of the sovereignty of India. It is always easy to make a wild charge but it is absolutely impossible to substantiate the same. I do not want to dwell more on this particular point.

Shri Kachawaiji feels that somebody could use his personal vendetta against the party or person in the Government of these particular areas. I can assure him that much wider power was available to us and is available to us, which this House has given to us, but which has never been misused. Mr. Dinan Bhattacharyya's party has not pointed out a single case. They send telegrams even to persons outside, who are not very friendly to this country. Not a single telegram was stopped by us. Even the Communist party (Marxists) send telegrams to China or telegrams to any part of the World. They were never stopped. What he says is not based on facts. I do not want to argue on emotion. My only submission is, I expected, as a reasonable man, he would give us a chit and say, "yes, you have much wider power, thank you very much, you never made use of them". And then he should have said: "What you are trying to do is in conformity with the four corners of the Constitution. Congratulations." But, instead of that, he accuses us of so many things which are not warranted by facts. He just points his accusing finger at us; but what he says is not borne out by facts; what he is doing is something which is misguided and if he has to point out his accusing finger against anybody, it is against those who are mis-informed about the thing, who try to confuse the issue.

With these words I close and I hope the House will understand the position.

MR. DEPUTY-SPEAKER: The question is :

"That the Bill further to amend the Indian Telegraph Act, 1885, as passed by Rajya Sabha, be taken into consideration."

The motion was adopted.

MR. DEPUTY-SPEAKER: Now, we take up the clauses. For clause 2, an amendment has been given notice of by Shri B. V. Naik. Is he moving it ?

SHRI B. V. NAIK (Kanara) : No, Sir.

MR. DEPUTY-SPEAKER : Since there are no amendments, I shall put all the clauses etc. together to vote.

The question is :

"That Clause 2, Clause 1, the Enacting Formula and the Title stand part of the Bill."

The motion was adopted.

Clause 2, Clause 1, the Enacting Formula and the Title were added to the Bill.

SHRI H. N. BAHUGUNA : I beg to move :

"That the Bill be passed."

MR. DEPUTY-SPEAKER : The question is :

"That the Bill be passed."

The motion was adopted.

15.12 hrs.

DISTURBED AREAS (SPECIAL COURTS) BILL

THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS AND IN THE DEPARTMENT OF PERSONNEL (SHRI RAM NIWAS MIRDHA) : I beg to move :

"That the Bill to provide for the speedy trial of certain offences in certain areas and for matters connected therewith, be taken into consideration."

Government are deeply committed to promote national integration and maintain the secular character of our democratic framework and have indicated on several occasions in clear terms that no effort would be spared for dealing with the problems relating to communalism. The people of this country are deeply conscious of the value of national unity and secularism. They have clearly demonstrated this in unmistakable terms twice within a period of one year by giving their mandate for secularism.

Consistent with this mandate, several legislative measures have already been undertaken.

As the House is aware, in 1969, we had made more stringent the provisions of law dealing with elements responsible for creating mistrust and ill-feeling between different sections of the people. This had been done by virtue of the enactment of the Criminal and Election Laws Amendment Act of 1969, whereby the scope of section 153A and section 505 of the IPC was enlarged and greater punishments were laid down. Government had also taken powers to prevent the publication of inflammatory material.

As the House is aware, more recently, we have enacted the Criminal Law Amendment Act, 1972 to deal with associations whose activities are prejudicial to the maintenance of communal harmony, prejudicial to the interests of national integration and prejudicial to all the essentials of secular democracy.

The present Bill seeks to bring to book more expeditiously persons guilty of offences connected with communal incidents. It may recalled that the National Integration Council in its meeting at Srinagar in June, 1968 had recommended that offences should be investigated and the offenders prosecuted promptly and that prosecutions once launched should not be withdrawn; Special courts with summary powers to deal with offences connected with communal incidents should be constituted. The recommendation was forwarded to all State Governments for necessary action. The reports received from the State Governments indicated that whenever necessary, they were appointing additional magistrates to expedite trial of cases arising out of communal disturbances. But considerable delays continue to occur in the disposal of such cases. The recommendation of the National Integration Council was, therefore, examined to see whether the offences committed during communal disturbances could be made triable by special courts as distinct from appointment of additional magistrate and in accordance with an expeditious and special procedure.

Such trials by special courts according to a special procedure would not be possible under the existing law, except in West Bengal where there is a special

law called the West Bengal tribunals of Criminal Jurisdiction Act, 1952 for trial of certain classes of offences by special courts. No, legislation is, therefore, necessary, which may be undertaken either by Parliament or by the State legislatures.

The interest of uniformity deems it necessary for Parliament to undertake the legislation. The State Governments have been consulted in regard to the proposed legislation.

The Bill does not require any detailed explanatory statement. I will only briefly explain the essential features of the Bill. Cl. 3 enables the State Government to declare any area within the State where extensive communal disturbances have occurred as a disturbed area. The notification for this purpose can be made also with retrospective effect. The notification could be issued initially for a period of three months and can be extended from time to time. Thereafter, under cl. 4 the State Government can constitute the necessary number of special courts for the purpose of trial of offences set out in the Schedule to the Bill committed in the area declared to be a disturbed area. Cl. 5 empowers the special courts to try all scheduled offences in any disturbed area and also any other offence with which the accused may be charged at the same trial, if it is connected with the scheduled offence. Cl. 6 enables the special court to take cognisance without committal proceedings of any scheduled offence. It also enables the special court to try a scheduled offence punishable with imprisonment for a term not exceeding three years in a summary way in accordance with the procedure prescribed in the Code of Criminal Procedure for summons cases. In the case of any conviction in such trial, the special court can pass a sentence of imprisonment not exceeding two years. Cl. 7 provides that the special court can transfer cases to regular courts when the offence, although a scheduled offence is, unconnected with the disturbances.

It would be seen that the principal advantages of the suggested legislation would be (1) that the time taken by committal proceedings in cases triable by courts of sessions will be eliminated, and (2) that since the trial according to the summons procedure under the

[Shri Ram Niwas Mirdha]

Code of Criminal Procedure involves less delay and because a large number of offences generally committed during communal disturbances are punishable only with imprisonment of upto three years, the trial of such cases according to the summons procedure will thus be more expeditious.

The House is already aware that the Code of Criminal Procedure Bill which is being scrutinised by a Joint Committee also seeks to do away with committal proceedings in respect of cases triable by special courts. But the power of summary trial given to the special courts under this Bill are more than that envisaged in the Code of Criminal Procedure Bill. Firstly, whereas the Code of Criminal Procedure Bill provides for summary trial only in respect of offences not punishable with death, imprisonment for life or imprisonment for a term exceeding one year, the present Bill provides for summary trial in respect of the scheduled offences punishable with imprisonment for a term not exceeding three years or with fine or with both. Secondly, whereas the Code of Criminal Procedure Bill provides that in such summary trials no sentence of imprisonment exceeding six months can be passed, the present Bill empowers the special courts to pass a sentence of imprisonment for a term not exceeding two years.

It would, therefore, be seen that the Bill would be providing a more expeditious procedure of trial in respect of a larger number of offences generally committed during communal disturbances. It will be seen that the object of the Bill is to expedite the disposal of criminal cases arising out of communal disturbances. It would be a clear warning to offenders in such cases arising out of communal disturbances that the law would take its own course expeditiously, which by itself may have a deterrent effect in regard to the commission of such offences. Prompt disposal of such cases would also restore the confidence of all sections of the people in the administrative machinery and would also erase unhappy memories that would linger if there were delays in the disposal of such cases. With these words, I move.

MR. DEPUTY-SPEAKER : Motion moved :

"That the Bill to provide for the speedy trial of certain offences in certain areas and for matters connected therewith, be taken into consideration."

SHRI BIREN DUTTA (Tripura West) : I rise to oppose this Bill. First I wish to recall how the situation in the country has improved after the Simla agreement. The whole situation in the Indian sub-continent has radically improved.

MR. DEPUTY-SPEAKER : Just a minute, Mr. Biren Dutta. I am sorry to interrupt you. Certain amendments to the motion for consideration are to be moved. I will call you again. Now, there is an amendment to the motion for consideration, given notice of by Shri Atal Bihari Vajpayee. He is not here. Then, Mr. M. C. Daga. Are you moving?

SHRI M. C. DAGA (Pali) : I am moving the motion that it be referred to a Select Committee.

MR. DEPUTY-SPEAKER : There is only one amendment that you have given notice of, and that is for circulation of the Bill. Are you moving it?

SHRI M. C. DAGA : No, Sir. But I have already given notice—

MR. DEPUTY-SPEAKER : I have no other amendment in your name here.

SHRI DINEN BHATTACHARYYA (Serampore) : He wants to move his motion for reference to the Select Committee.

MR. DEPUTY-SPEAKER : That amendment is not before me.

SHRI M. C. DAGA : I have already submitted...

MR. DEPUTY-SPEAKER : There are certain rules for giving amendments. (Interruption) Order please. Will you sit down? There are certain rules. You have to give notice of amendments at a particular time within a particular period. If you have not done it within that time, I take no notice of it. Yes, Shri Biren Dutta.

SHRI BIREN DUTTA : Sir, I was referring to the situation in the sub-continent of India which has much

improved, and this change is reflected in the Simla agreement. Nobody will deny that the country, after defeating the conspiracies of divisive forces, is witnessing a situation where the progressive forces, in the national interests both in India and Pakistan, are asserting themselves to achieve more and more of people's democratic rights. The people of Pakistan as well as the people of India are addressing themselves to this task and are reorganising the whole of the sub-continent not on the basis of confrontation but on the basis of peaceful co-operation. We have seen how, at the time of the Bangladesh crisis, the whole of India stood as one man and supported their cause, and they showed that no longer can the people of India be affected by the communal and divisive forces.

At this juncture, to bring such a Bill before the House is to mar the image of the progressive forces not only in India but also the progressive forces of Pakistan. I am astonished how, at this juncture, the Minister has brought such a Bill before this House, empowering that any area or on the ground that, or on the fear that there will be communal riots. I request you to consider seriously whether such a Bill should at all be discussed in this House at this point of time.

What is happening? In Bangladesh, we have seen that the communal forces have been isolated and the forces of democracy have taken root. In Pakistan as well, you are seeing that the forces of democracy are asserting themselves. Here in India we have witnessed the growth and development of the RSS, the Jan Sangh and similar types of communal organisations, but we have also been seeing that these divisive forces are now declining; they are now declining forces. So, if you have eyes to see, you can see that the root-cause of the development of communalism, divisive tendencies and provincialism lies in the influence of the imperialist forces or the exploiting classes of India who try to maintain these forces in our social fabric so as to gain something out of that divisionalism, communal or provincial or otherwise.

Now all over the sub continent these forces are being defeated and the forces of progress under the leadership of the working class people are asserting themselves. They fought the imperialists and

driven them out of this sub continent. They helped to drive out the American imperialists from Bangla Desh and they are trying to drive out the forces of reaction who nourish this type of communalism and division in India. Look at Calcutta or Bombay, people of all areas from U.P., Bihar, Orissa, Tamil Nadu, Kerala and other places gather in factories, schools and establishments and are fighting for their rights against foreign and Indian vested interests unitedly.

MR. DEPUTY-SPEAKER : Are you in favour of special courts?

SHRI BIREN DUTTA : No, I say that this Bill should not have been brought at this stage. I am going into the intentions of this Government why they bring forward this Bill at this time. The Government joined hands with communal forces like the Muslim League in Kerala for forming a Government. What is their attitude towards the Jana Sangh and the R.S.S., Jamaat Islam and other forces of communalism? They are soft to them. It is against the real democratic unity of the people that this Bill is aimed.

You will be astonished that under this Bill any area can be declared as a disturbed area. I opposed a similar type of Bill when Shri K. C. Pant brought forward declaring the whole of Manipur, Tripura, Meghalaya or certain parts thereof as disturbed areas. I warned the House that it was the beginning of such Bills. You have not heard of any disturbance in Tripura. After passing that Act, a part of Tripura had been declared as a disturbed area. What is the disturbance? There is no news to Parliament, nothing in the papers. But the fact is that there is no food in Tripura and people are dying out of starvation. They are not willing to die in the hilly villages. They want to come to the plains and share the food with the people living there. That is why it has been declared as a disturbed area.

I ask the minister if he has heard anything happening in Tripura to be declared as a disturbed area. At this juncture of our history when we should encourage the people saying, "You have given up the communal feeling and you are trying to get out of the influences of foreign imperialists and vested interests. "Go ahead!", instead of saying that, you are saying that you are not believing the people of India and so you want this power to declare an area as

[Shri Biren Datta]

disturbed area. That is why I oppose this Bill lock, stock and barrel and I request the minister not to mar the image of progressive India by bringing such a Bill before the House.

SHRI DINESH CHANDRA GOSWAMI (Gauhati): Sir, I rise to support this Bill. I thought that nobody could have any objection to the basic object of this Bill. Of course, to some of the provisions of the Bill I have got my reservations and I hope the minister will clarify them. But I was surprised to hear from the previous speaker that he has objection to the Bill because according to him the communal forces are decaying and this Bill is not necessary. It is true that communal and reactionary forces are decaying. But let us face facts. The facts are that these forces have not completely vanished. They are in existence and because of that, we have to bring various legislations including amendments to the IPC. By this Bill, we are trying to apply some chemicals to foster the growth of decay of these forces. I do not know how my Marxist friend can have any objection to it. He criticised us saying that we are not fighting the Jan Sangh and RSS. The records of this House and the records of our party both inside the House and outside will amply prove that the Congress Party has always fought reactionary forces. On the contrary, my Marxist friends have been talking at times of joining hands with reactionary parties to fight the Congress. That itself shows who is fighting whom.

Coming to the provisions of this Bill, nobody can have any objection to the basic objects of the Bill, which seeks to provide for speedy remedy in the case of certain kinds of offences. We have seen that in our country, there is great delay in disposal of cases, with the result that the very purpose for which a man is punished is to a great extent lost in many cases. The purpose of punishment is both punitive and preventive. The purpose is to punish him for doing a wrongful act and also to prevent others from doing it and set an example so that others may not commit a similar offence. But if a long time is taken in the disposal of the case, the purpose is naturally lost. If somebody commits an offence today and if he is punished after 5 or 6 or 10 years, that does not create any impact on me. Therefore,

speedy disposal is necessary and it should be mandatory and essential particularly for social offences. The scheme of the Bill is that if a State Government is satisfied that in any area within the State extensive disturbance of the public peace and tranquility has taken place by reason of differences or disputes between members of different religious, racial language or regional groups or castes or communities, then it may declare such an area to be a disturbed area. So, an area will be declared as disturbed only when this condition precedent is satisfied. I do not think anybody can have any apprehension that this declaration of disturbed areas will be politically motivated or politically used.

If the area is declared as "disturbed area", for the purpose of providing speedy trial of scheduled offences the State Government will create special courts. I have not been able to gather from the Act itself whether the Government is contemplating the creation of temporary courts or permanent courts. If the government is thinking of creating permanent courts, undoubtedly there will be heavy cost for the State exchequer. Government should see whether the workload of such offences will permit the creation of permanent courts. If the government is thinking of creating only temporary courts, then I feel that the qualifications for which they are asking are so high that they will not be able to get sufficient number of people. Section 4(3) of the Bill says that person shall not be qualified for appointment as a judge of a Special Court unless he is qualified for appointment as a judge of a High Court, or has experience of at least one year as sessions judge or additional sessions judge. The power which is conferred by this enactment is more in the nature of magisterial power. Therefore, I do not know why you are insisting on the qualification of a High Court judge. As such, I have given notice of an amendment that a person who is qualified to be appointed as a sessions judge should be qualified to be appointed to the special court. Because, the special court will not be trying graver offences than offences tried by a sessions judge. If a new man having the qualifications of a sessions judge can try such offences, why are you wanting greater qualifications in such cases? We know that

the condition of the country is such that in most of the States persons with greater qualifications are not very keen to come to the judicial service, particularly if the service is temporary.

My next most serious objection is to a provision in this Bill which says that all the offences which have been mentioned in the schedule to this Act will be triable by the special court. In the schedule we find sections of the Indian Penal Code like sections 121, 143, 145, 302, 303 and so on. If the offences are committed in pursuance of the reasons mentioned in section 3, then only they should be tried by the special court. Suppose a man commits murder in a disturbed area, which has nothing to do with either communal, linguistic or religious disturbance, why are you making the offence triable by the special court? If you make all such offences triable by the special court, there will not be expeditious disposal of the case. Secondly, Section 7 says :

"Notwithstanding anything contained in sub-section (1) of section 5, where, after taking cognizance of any scheduled offence, a Special Court is of opinion that the offence is one which does not form part or arise out of, or that it is unconnected with any such disturbance as is referred to in section 3, it may transfer the case for trial to any court having jurisdiction under the Code."

I feel that if this option is given to the special court, then it will be violative of article 14, because if a man commits a murder in an area which is not a disturbed area he will be tried under the procedure laid down in the Criminal Procedure Code and if he commits a murder in a disturbed area he will be tried under the procedure laid down in this Act. If the offence committed in the disturbed area has no rational relation with the object of this enactment, then the courts will undoubtedly hold that it is discriminatory and violative of article 14 and declare it illegal. Therefore, I strongly object to the entire gamut of offences being mentioned in the Schedule and being brought under the provisions of this Bill. This Bill should confine itself only to such offences which occur because of religious, racial or language disturbances between different regional groups, castes or communities. In that case, we can

except speedier trial and we can expect that the courts will not strike down the provisions of this Act.

Coming to other provisions of this Bill, in clause 6, it has been said that so far as an offence which is punishable with imprisonment for more than three years is concerned, it will be tried as a warrant case and other cases will be tried in a summary way. My request to the hon. Minister will be that, I think, it is better to delete the serious offence of murder from the purview of this Act. After all, the murder is an offence where a person loses liberty for life or the life itself. The person would feel that he has been denied a procedure simply because an area has been declared a disturbed area. The number of murders that take place because of communal or religious disturbances are not of great number in the country. Therefore, I feel, considering the gravity of the offence, Sections 302 to 304 should be deleted from the Scheduled of this Act and the person should be at least that much of a feeling that the gravity of the offence being such, he has been allowed all opportunities which are allowed under the ordinary procedure of law.

Secondly, I feel, some latitude should be given to courts or some discretion should be given to courts to judge whether a case should be tried in a summary way or according to the summons procedure. Summary way is a very compact procedure. It may be that in such type of cases, there may be many accused and there may be many witnesses and it may not be possible to try a case in a summary way or, if it is tried in a summary way there may not be proper justice. In the Criminal Procedure Code, there is a provision that if the courts feels that the case is not a proper one which should be dealt with in a summary way, the court is allowed the discretion to use the summons procedure. Why are we not allowing the same discretion here? I feel, we should use the same discretion here. The ordinary procedure should be the summary way but, if a court feels, considering the number of accused or considering the number of witnesses or considering the complexity of the crime, that it is not desirable to try the case in a summary way, the discretion should be left to the court that it can be tried according to the summons procedure.

[Shri Dinesh Chandra Goswami]

So far as the trial in a summary way is concerned, the proviso to clause 6(3) makes an interesting reading. It says.

"Provided that in the case of any conviction in a summary trial under this section, it shall be lawful for a Special Court to pass a sentence of imprisonment for a term not exceeding two years."

Is it a substantive provision or a procedural provision? Does this provision empower the court to give punishment upto two years? If you keep the proviso that empowers the court in a summary way to give punishment upto two years, there are certain offences mentioned in the Schedule for which the maximum punishment is six months' imprisonment. How are you permitting the court in a summary way to deal with a case of imprisonment for two years when the maximum punishment laid down under the Criminal Procedure Code is six months. You may say that this is a procedural part of it and that the court, where the punishment is two years or more, will be allowed to give a punishment of two years. I feel drafting of the Bill has not been very happy.

I have also given an amendment saying

"(3A) That in case of any conviction in a trial under sub-section (3), it shall be lawful for the court to impose any sentence authorised by law for punishment of such offence but in case of summary trial the period of imprisonment shall not exceed two years"

Now, I come to clause 7 which gives an unfettered discretion to the Special Court either to transfer or not to transfer a case. There is no guide-line laid down as to in which cases the Special Court will be competent to transfer or not to transfer a case. Clause 7 says:

"... after taking cognizance of any scheduled offence, a Special Court is of opinion that the offence is one which does not form part or arise out of or that it is unconnected with any such disturbance as it referred to in section 3, it may transfer the case for trial to any court having jurisdiction under the Code."

Such unguided and un-canalised power in the hands of the Special Court is

violative of article 14 and from that point of view also, I feel clause 7 should not be there.

So, my respectful submission to the hon Minister will be that this Bill, not being very properly drafted—I do not know whether I am entitled to say so—should be scrutinised and, I feel the campus of the Bill should be narrowed down. There should be an amendment in the scheduled offences and only those cases where offences are committed because of the reasons mentioned in section 3 should be tried by the Special Courts and not otherwise and subject to what other amendments I have given. I hope, the learned hon Minister will try to clarify the points that I have raised in this debate.

श्री सरजू पांडे (ग़ाज़ीपुर) उप-अध्यक्ष
जो, यह जो बिल मदन के सामने रखा गया है मैं इस का विरोध करना हूँ। माननीय मंत्री जो ने अपने भाषण में कहा है कि इस तरह के बिल का सिफ़ारिश अमृतसर कांग्रेस में हुई था और इसलिए हुई थी कि जहाँ जहाँ साम्प्रदायिक दंगे होते हैं उन पर क़ंट्रोल करने के लिये या जल्द। मैं अपराधियों का सज़ा देने के लिये इस बिल का आवश्यकता उस समय महसूस नहीं कर पाया।

15.46 hrs.

[SHRI K. N. TIWARY in the Chair]

मैं यह समझता हूँ कि हमारे देश में जो साम्प्रदायिक दंगे हो रहे हैं, मही बान है कि इन का निवारण होना चाहिये, मगर मैं समझता हूँ कि इस बिल में कोई प्रभाव न दगाइयों पर पड़ेगा और न इस से अपराध रुकेंगे बल्कि साधे मोर्चे इस बिल का मिसूज़ होगा, और ख़ाम तौर से उन लोगों के विरुद्ध इस का प्रयोग किया जायेगा जो कि माइनारिटी में हैं।

अधो मंत्री जो मेक्युलरिज्म की बात कर रहे थे। थोड़े दिन की बात है अलोगड मुस्लिम यूनिवर्सिटी ऐक्ट इसी हाउस से पास हुआ, और हम सब जानते हैं कि ठाँक पास हुआ। मगर हमारे देश के मुसलमानों ने उस बिल का विरोध ज़ुलूम निकाल कर नहीं किया और न ही। ज़ग़ह ज़ग़ह उस के विरोध में प्रदर्शन किये, बल्कि

काले बिल्ले लगाये । बनारस, फिरोजाबाद और अलागढ़ में यह हुआ । लेकिन जो कुछ पुलिस ने किया मैं समझता हूँ इतना शर्मनाक वाक्या कहीं नहीं हुआ । फिरोजाबाद में मुझे बतलाया गया कि आखिर लोगों ने क्या किया ? मालूम हुआ कि एक आदमी ने सारा काला कपड़ा अपने जिम्म में लपेट रखा था और इन्दिरा गांधी के खिलाफ नारा लगा रहा था । लेकिन उस के विपरीत जनमघ के भाई क्या कर रहे हैं ? शिमला समझौता, जिम का कि इस मदन ने एक स्वर से समर्थन किया, उस के विरोध में रात दिन जनसभ के लोग जुलूस निकालते हैं, तरह तरह का गंदे में गंदा प्रचार करते हैं, मगर न पुलिस और न मंत्री उस की परवाह करते हैं । लेकिन दूसरा कम्युनिस्टों के लोग अगर अपना जबान खोलते हैं तो पुलिस भी उन के खिलाफ एक्शन लेता है, और इस प्रकार का एक्शन लेता है जैसे मालूम होता है कि एक स्पेशल दल को है। वह पुलिस है । इस तरह से इस ऐक्ट के मान्यता साम्प्रदायिक तत्वों को आप कभी भी सदा नहीं देंगे जिन से हम को खतरा है । आज माइनिस्ट्रिज कम्युनिस्टों के लोग कोई साम्प्रदायिक दंग नहीं कर सकते, इस का मर्म पूरा विषय है । अगर कोई खतरा है तो हिन्दू साम्प्रदायवाद से है जिम के नेता सारे देश में गडबड़ करते हैं । उन को न आप का कानून पूछता है और न पुलिस पूछता है । इसलिये इस बिल से कोई अपराध नहीं रहेगा, बल्कि उल्टे यह होगा कि ऐसे लोगों के हाथ में पावर देंगे जो ग़रीब माने में हमारे देश को सेक्युलरिज्म को नुकसान पहुँचाये और इस कानून से कभी भी उन लोगों को बराबरी का अवसर नहीं मिलेगा जो किसी बात का विरोध करना चाहते हैं । हमारे देश में सब को विरोध प्रकट करने का हक है । अगर किसी को शिमला समझौता अच्छा नहीं लगता तो उन को विरोध का हक है, लेकिन साथ ही अगर कोई ऐक्ट इस सदन से पास होता है और देश की कोई कम्युनिटी समझती है कि हमारे ऊपर उस कानून का बुरा प्रभाव पड़ता है तो उस को भी विरोध

प्रकट करने का पूरा हक है । मगर एक को हक न देना और दूसरी कम्युनिटी को पूरी छूट देना, मैं समझता हूँ कि इस से इस बिल का मिसयूज होगा, और इस से साम्प्रदायिक दंगे नहीं रकेंगे ।

जहाँ भी दंगे हुए हैं, मैं ने सब जगह देखा । अब मैं बनारस गया, मुझे पता लगा कि पुलिस के लोग खड़े हो कर खुद लोगों को बुला कर कहते थे कि लूटने क्यों नहीं । टेलाफ़ोन काट दिये, हर तरह से उन को घर लिया और लोगों को बुला कर कहा कि इन को लूटो । और उन लोगों के मकानात लूटे गये जो किसी तरह से साम्प्रदायिक-दंगे में शामिल नहीं थे । इसी तरह से दूसरा जगहों में है । मेरा यह कहना है कि जो बिल आप ला रहे हैं उस से आप एक खाम कम्युनिटी को हँसे कर रहे हैं और जो हमारे देश के हिन्दू साम्प्रदायिक तत्व हैं उन को कभी नहीं दबाया जायेगा और न उन के खिलाफ इस बिल का इस्तेमाल होगा । आखिर इस से क्या लाभ होगा ?

दूसरी बात मैं यह कहता हूँ कि इस बिल में जो राज्य सरकारों को डिस्टर्ब एरियाज डिक्लेअर करने का अधिकार दिया गया है और अपराधों का ट्रायल करने की व्यवस्था की गई है उस में आई० पी० सी० की नम्बो धाराओं 120, 143, 45, 83, 93 के अन्तर्गत ट्रायल करने का काम स्पेशल कोर्ट्स को दिया जायेगा । लेकिन मान लीजिये कि जिस एरिया को स्टेट गवर्नमेंट ने डिस्टर्ब एरिया डिक्लेअर किया है उस में दो भाइयों का झगडा हो जाता है, खेत के बारे में लड़ाई हो जाती है या किसी आर्थिक मामले को लेकर लड़ाई हो जाती है तो फिर उन का ट्रायल होगा या नहीं क्योंकि जब डिस्टर्ब एरिया डिक्लेअर होता है तब इस तरह के अफेन्सेज में रोकवट करने की कोई व्यवस्था नहीं है । वह कैसे साबित होगा ? इस में किसी तरह का विचित्र होना चाहिये जिस के द्वारा साम्प्रदायिक तत्वों के अलावा जो लोग लूट मार करते हैं, और बदमाश हैं

[जी सरजू पाठे]

कल के वकयत करते हैं, जिन का साम्प्रदायिक तत्वों से कोई सम्बन्ध नहीं है, उन को डिफरेंशिएट किया जा सके। ऐसे लोगों के ट्रायल का अधिकार उन को होना इस तरह की कोई व्यवस्था इस बिल में नहीं है। इस में आई० पी० सी० के सारे सेक्शन के ट्रायल कहे गये हैं। मैं जानना चाहता हूँ कि इस को इलावत के लिये आप के पाम क्या व्यवस्था है। जो झगड़े साम्प्रदायिक मसलों को ले कर होते हैं उन में मारपाट होता है, घर लूट लिये जाते हैं, आदमी मारे जाते हैं, लेकिन ऐसे वाक्यान्त में जिन का साम्प्रदायिक मामलों से कोई सम्बन्ध नहीं होता। उन को डिफरेंशिएट करने के लिये इस बिल में व्यवस्था जरूर होना चाहिये।

तामरो बान न यह कहना चाहता हूँ कि इस में समरा ट्रायल की व्यवस्था की गई है जिस में दो माल तक की सजा हा सकता है। यह ठीक नहीं है क्योंकि इस में पूरा अदालत न्याय नहीं होता। जो लोग जजमेंट करने के लिये बैठते हैं या जो लोग केमेज लाते हैं वह हमारे देश में इस तरह के लोग हैं कि उन पर शरीमा नहीं किया जा सकता। वह लोग कितने गलत तरीके से काम करते हैं इस का तजुर्बा हम सब को है। किम तरह की हमारा पुलिस है, वह पुलिस कितना अन्याय करता है इस के बारे में खुद पंडित जी ने अपनी किताब "मेरी कहानी" में बहुत सी बात लिखी हैं। पुलिस के लोग कितना अन्याय करते हैं इस की कोई और मिसाल नहीं है। उन्हीं लोगों के हाथ में यह अधिकार होगा। वह मुकदमे चलायेंगे, लोगों को गिरफ्तार करेंगे। सुनो भायूसू है कि किस तरह से भूवाहमारों को न पकड़ कर के बेचनाहों को खेद से डालते जाते हैं। वहाँ से कोई डिफेन्स होम न गवाहिय होंगे। वह उन का समरा ट्रायल कर के उन को दो साल की सजा दे देंगे। यह हमारे सबिधान की स्पिरिट के खिलाफ है कि किसी आदमी को कभी इस बात का अधिकार न हो कि वह अपने आप

को निर्धारण सक्षित कर सके उस की सजा दे देवे का अधिकार अब स्पेशल कोर्ट्स को दे दें। मैं समझता हूँ कि वह चीज गलत होगी। वहाँ पर समरा ट्रायल की व्यवस्था नहीं होनी चाहिये।

अगर आप चाहते हैं कि देश में कम्यूनल झगड़े न हों तो आप को सही मानी में सेकुलर बनना होगा और पूरे मशीन को सेकुलर बनाना होगा। जो भा हमारे अफसर हैं, नेता हैं उन सब को मेकुलर-माइन्डेड बनाना होगा क्योंकि यह एक सामाजिक बीमारी है। जो ऐसे साम्प्रदायिक विचारों के लोग हैं उन के विचारों का परिमार्जन किये बिना अगर आप इस तरह का ऐक्ट बनायेंगे तो मैं समझता हूँ कि वह सल्ल गलत होगा। आखिर वह, लोग तो फैसला करेंगे कि कौन लाग साम्प्रदायिक मामलों में हिस्सा ले रहे हैं मान नहीं। यह वह लोग हैं जो लोग खुद कम्यूनल हैं। अगर उन को अधिकार दिया गया तो वह ऐसे लोगों को पकड़ कर लायेंगे जो बेगुनाह होंगे।

मैं मंत्री मण्डल से कहना चाहता हूँ कि अबल तो इस बिल को जरूरत नहीं है हालांकि यह सही है कि हमारे देश में साम्प्रदायिक तत्व बढ़ रहे हैं। इस का जब समाज में है और वह लोग नाना प्रकार का खराफात देश में करते हैं लेकिन यहाँ पर सब के साथ ईक्वल ट्रीटमेंट होना चाहिये। जहाँ आप मुस्लिम साम्प्रदाय का दमन करते हैं वहाँ आप जन सघ के भाइयों को भी सबक दोजिये। जो नाना प्रकार की खराफात करते हैं, झूठा प्रचार करते हैं, गन्धे नारे लगाते हैं उनके खिलाफ आपने आज तक कोई एक्शन नहीं लिया। आप बता दें कि किसी के खिलाफ आपने कोई कार्रवाई की है। बिल में आपने सभी को इकट्ठा कर रखा है। मैं कहना चाहता हूँ कि इसके लिए जो प्रोसीजर है उस में आप कोई खेद न करें। कम्यूनल डिस्टर्बेंस और भायूसी डिस्टर्बेंस में आप खेद न करें। स्पेशल साबर आप से खेद लेकिन यह खेद आप अवश्य करें। अगर आपने ऐसा नहीं किया तो मान्य नहीं मिलेगा और

बेगुनाह लोग सजा पाएंगे और इससे और भी ज्यादा खराबी समाज में पैदा होगी। इन सबकों के साथ मैं इस बिल का विरोध करता हूँ।

श्री बिजुलि मिश्र (मोतीहारी) : जिन लोगों ने इस बिल का विरोध किया है उन्होंने कहा है कि जो नान कम्युनल झगड़े होंगे उनको भी स्पेशल कोर्ट्स ट्राई करेंगी। यह बात बिल-कुल नहीं है। आप क्लाज 7 को देखें। जो नान कम्युनल झगड़े होंगे उनको सीधे और कोर्ट में भेजा जाएगा। आप क्लाज 7 को पढ़ लें।

कम्युनल और भापाई इत्यादि झगड़े बहुत दिनों से चलते आ रहे हैं। कोर्ट में जा कर ये पड़े रहते हैं और चूँकि हम में देरा हां जाती है, इस वास्ते दोषी व्यक्तियों को सजा नहीं हां पाता है। इस बान्ने जो बिल लाया है इसका मैं समर्थन करता हूँ। इस बिल को लाना बहुत जरूर था। हमारा स्वाधीनता को लड़ाई से ले कर आज तक सभी लोग चिल्लाने रहे हैं कि गुजरात में, रांची तथा दूसरी जगहों पर झगड़े हुए हैं और जो झगड़े कराने वाले लोग थे वे छूट गए हैं। इस वास्ते मैं समझता हूँ कि यह बिल लाया गया है।

बाको रही बात पांडे जी की। उन्होंने कहा है कि पुलिस वालों को आप अधिकार दे रहे हैं। आखिर हम को कोई मशीनरी तो रखनी हो होगी और उसके ऊपर हम को डिपेंड करना हो पड़ेगा फिर चाहे वह पुलिस की मशीनरी हो या मैजिस्ट्रेसी हो। किसी न किसी आदमो पर निर्भर तो करना ही पड़ेगा। दुनिया के किसी भी देश में ऐसा नहीं है कि किसी न किसी मशीनरी पर डिपेंड न किया जाता हो। पांडे जी ने कहा कि यहाँ ब्लू आफ ब्यूरोक्रेसी है। दुनिया में कहीं ब्यूरोक्रेसी इतनी शक्तिशाली नहीं है जितनी यहाँ है।

श्री हुकम चन्ध कल्याण : सभापति महोदय, कोरम नहीं है।

सभापति महोदय : बंटी वज रही है। कोरम ही गया है। माननीय सदस्य अपना भाषण जारी रखें।

श्री बिजुलि मिश्र : पांडे जी कह रहे थे कि पुलिस ज्यादाती करती है। मैं एक किताब जो हाल में निकली है 'चाइना टूडे' नामक उसको पढ़ रहा था। जितना ब्यूरोक्रेसी का बोल-बाल रूस में है उससे अधिक दुनिया के किसी देश में नहीं है। इस वास्ते मैं समझता हूँ कि ब्यूरोक्रेसी का विरोध करना पांडे जी के लिए ठीक नहीं है, उचित नहीं है। हां, हम लोग ब्यूरोक्रेसी का विरोध करते हैं क्योंकि हम उस के मुक्त भोगी हैं।

आप स्टेट गवर्नमेंट को पावर दे रहे हैं। यह भली है कि स्टेट गवर्नमेंट किमो भा एरिया को डिस्टर्ब्ड एरिया घोषित करेगी और यह पावर उसके पास रहेगी। लेकिन मैं समझता हूँ कि इस में थोड़ा सा सेंट्रल गवर्नमेंट का भी हाथ होना चाहिये। किमो एरिया को डिस्टर्ब्ड एरिया घोषित किया है किमो स्टेट ने वह कहाँ तक नहीं है और कहाँ तक गलत, इसका आपको भी देखना चाहिये। इसके लिए आप चाहे क्लर्क बनाएं या एग्जैमैंट रखें लेकिन कुछ न कुछ अवश्य किया जाना चाहिये। अगर कहीं भाषा को ले कर झगड़ा हो जाए या रिलिजन को ले कर झगड़ा हो जाए या और किसी किस्म का झगड़ा हो जाए तो केन्द्रीय सरकार का भा इस कार्य में कुछ हाथ आवश्यक होना चाहिये कि देखभाल करे।

क्लाज 4 के भाग 3ए० और बी० में आपने जज को क्या क्वालिफिकेशंस होंगी, यह लिखा है। मैं समझता हूँ कि टैम्पोरेरी जज हमें बहाल नहीं करने चाहिये। परमानेंट केडर के जजों को ही ट्राई करने के लिए आपको भेजना चाहिये। जो टैम्पोरेरी जज होते हैं, उनकी क्वालिफिकेशंस चाहे जज बनने की हों, लेकिन अनुभव बताता है कि सरकार को खुश करने के लिए वे ज्यादा सजायें दे देते हैं। ब्रिटिश राज के जमाने में जब हम स्वाधीनता को लड़ाई लड़ रहे थे तो हम देखते थे कि अगर कहीं झगड़ा हुआ, बंटा फटा हुआ या मोली बली तो सरकार ऐसे आदमियों को बहाल करती थी जो उसके प्रजेन्स को होते बं और वे जाकर ट्राई

[श्री विष्णुति मिश्र]

करते थे। इस लिए मेरा ख्याल है कि केवल परमनैट कैंडर के जजों को ही रखना चाहिये। टेम्पोरेरी जजों को रखने से जस्टिस नहीं मिल पायेगा।

16.00 hrs.

जहाँ तक सम्मरी ट्रायल का सम्बन्ध है, सरकार को कौशलता काम करना चाहिये। मुझे अग्रेजों के जमाने का एक वाक्या याद है कि हमारे यहाँ एक जगह गोला चली थी और उस सम्बन्ध में सरकार ने सम्मरी ट्रायल कराया। हम लोग पटना तक गये, लेकिन नाचे से ले कर ऊपर तक कोई भी हमारा बात सुनने वाला नहीं था और सम्मरी ट्रायल में सरकार के पक्ष को हल सपोर्ट किया गया। सरकार को ऐसे नियम और उपनियम बनाने चाहिए कि जो जज सम्मरी ट्रायल के लिए नियुक्त किया जायें, वह ठाक तरह से काम करे। डिमटन्ड एरिया होने के कारण ठीक गवाहिया भी नहीं मिलेंगी, और सरकार को महल स्थिति का पता नहीं चलेगा।

यह बिल ठीक है और मैं इस का समर्थन करता हूँ। हिन्दुस्तान के इनटेंग्रेशन के लिए यह जरूर है।

*SHRI J. MATHA GOWDER (Nilgiris): Mr. Chairman, Sir, I welcome the Disturbed Areas (Special Courts) Bill introduced by the Minister of State in the Ministry of Home Affairs though I am of the view that this is a belated measure.

Before Independence, when the Britishers ruled us, they were able to exploit the differences prevailed among the people of India in the name of language and caste. They created divisive forces in the country in the name of religion. All of us are, especially in the year of Silver Jubilee Celebrations of our independence, aware of the circumstances under which the country was partitioned and how Mahatma Gandhi gave his life at the altar of unity of different communities living in the country.

As has been pointed out in the Statement of Objects and Reasons, there are considerable delays in the disposal of

criminal cases arising out of communal disturbances and disturbances between different religious, racial, language or regional groups or castes or communities. For the speedy trial of such scheduled offences by establishing special courts in the disturbed areas, the Government want to control the frequent recurrence of atrocities committed in the name of religion. The National Integration Council made this salutary recommendation in 1968 and with all the legal luminaries available at the disposal of the Government it is strange that four years should have been allowed to elapse before giving legislative form to that recommendation.

Here, I would like to accuse the Government that, due to inordinate delay in bringing about such meaningful legislation, there is indirect encouragement for the communal disturbances. If the Government had enacted such laws when the communal forces started raising their heads, much bloodshed and many murders of innocent people could have been avoided. We are all not like Mahatma Gandhi to go to the spot of disturbances, as he went in person to Naokali, and to put an end to the spread of such gruesome incidents. We have to derive our strength from statutes. We can remedy the situation only by taking recourse to legislative processes. When this is the position, the Government should have realised this and brought forward legislative measures much earlier. By not doing this, the Government have given impetus to communal conflicts, religious rivalries and language animosities. We have on one side the Aligarh Muslim University and on the other Banaras Hindu University. In Kerala we have got side by side Christian Colleges and Hindu Colleges. By permitting the establishment of educational institutions in the name of religion and community, the Government have helped the growth of communal animosities resulting in the loss of human lives.

Last month, over the Aligarh Muslim University Act, there were murders in Aligarh. I would like to know whether this area will be declared under this Bill as a disturbed area and whether such criminal atrocities will be enquired into. It is time that the Government come to grip with the growing violence in the country in the name of religion.

*The Original speech was delivered in Tamil.

I was hearing carefully the speech of the hon. Member, Shri Bibhuti Mishra. Some people seem to think that language is the main cause of frequent disturbances in the country. They are of the view that the Central Government should have all the powers to put an end to such language disturbances and the States should not be entrusted with any powers. I would like to point out here that language should be the cementing bond of unity and not the instrument of hatred and violence, which will put the national integration in jeopardy. I would emphatically say that unless the Central Government act impartially and dispassionately, there will not be any lasting solution to such serious problems. If the Government want to create any constructive impact of the implementation of this Bill, then they should not function in such a sluggish manner.

When you open the newspaper in the morning, every day you come across instances of inhuman atrocities committed on the Harijans. Harijans are murdered in day light and they are burnt alive. Even this morning this House discussed about the mass burning of Harijans in a village in Uttar Pradesh. I would like to know whether the Government will declare such areas also as disturbed areas and establish special courts for the trial of criminal offences committed on the unarmed Harijans. In our country we have Muslims, Sikhs, Christians, Buddhists and so many other communities. But there is no community like the Hindu community in which the caste Hindus treat cruelly the Harijans. If such an act had been in force, many Harijan murders and incidents of burning Harijans alive could have been averted. We have given constitutional protection to the minorities. Though the Government have provided constitutional safeguards for the welfare of Harijans, who have got the equal right to live like the caste Hindus, the Central Government have failed to give protection to the life and honour of Harijans.

Before I conclude, I would like to urge upon the hon. Minister that wherever atrocities are committed on the Harijans, wherever they are burnt alive, wherever their honour and life are at stake in the hands of caste Hindus, the Government should declare such areas as disturbed areas and establish special courts for the speedy trial of criminal offences.

With these words, I conclude.

9-7 LSS/72

श्री मूल चन्द्र डागा : सभापति महोदय, देश की एकता को अक्षुण्ण रखने के लिये राष्ट्रीय एकता परिषद् ने कुछ सिफारिशों की थीं, उन के अनुसार इस बिल को नहीं बनाया गया है। उन्होंने कहा था—

"Offences should be investigated and the offenders should be prosecuted promptly. Prosecutions once launched should not be withdrawn. Special courts with summary powers to deal with the offences connected with communal incidents should be constituted."

यह आप की राष्ट्रीय एकता परिषद् की सिफारिश थी और इस परिषद् की सिफारिशों के आधार पर आपने इस बिल को रण करने की कोशिश की, लेकिन इस विधेयक के बारे में जो आप की भावना थी, उस के एक अंग को हो इस में लिया गया है।

सभापति जी, आप इस के क्लॉज 5 की लोजिये, जिस में कहा गया है—

"Notwithstanding anything contained in the Code or any other law, a scheduled offence committed in any disturbed area at any time during the period specified in the notification issued under section 3 in respect of such area or during that period as extended under the proviso to sub-section (2) of that section shall be triable, whether during or after such period, only by the Special Court constituted in or in relation to the disturbed area in which the offence has been committed."

आप के क्लॉज 5 में जो डिस्टर्ब्ड एरिया का सैक्शन 3 है...

श्री हुकम चन्द कच्छवाय : सभापति महोदय, सबन में गणपति नहीं है।

MR. CHAIRMAN: The bell is being rung—now there is quorum.

श्री मूल चन्द्र डागा : क्लॉज 5 के अन्दर जो आपने रखा है कि कोई भी आफेंस हो—whether it is not connected with the right or anything...

[श्री नूल चन्द डागा]

मैंने इस के सम्बन्ध में अपना एक मोशन आप की सेवा में भेजा था कि यह बिल सिलेक्ट कमेटी को भेजा जाय। क्लॉज 5 के अन्दर देश की एकता के लिये साम्प्रदायिक तत्वों और असाम्प्रदायिक तत्वों के खिलाफ जो जल्द कार्यवाही करने के लिये आपने प्रावधान किया है, उस में उन के खिलाफ ऐक्शन लेने में एक-दो अडचने इस बिल में आती हैं। सैक्शन 147, 143, 148, 151—इन आफेन्सेज का जिक्र तो है, लेकिन 302 या दूसरे आफेन्सेज के बारे में क्या स्थिति है। दो साल से ज्यादा सजा रही है, तान साल को उनके लिए आपने प्रोविजन रखा है कि वारन्ट ट्रायल होगा। तो इसमें झगड़ा रहेगा। पहले केसेज को ट्राई करने के लिए एक्ज्यूज जो होगे 147 के, अनलाफुल असेम्बली के, मर्डर समरा ट्रायल्स, उनका ट्रायल अलग होगा और इनका अलग होगा। इसलिए जो आपका बिल है कृपा करके उसको फिर से एग्जामिन कोजिए। इसके लिए हो मैं ने सिफारिश का है कि इसको सैलेक्ट कमेटी में भेजा जाये और वहां पर इसको चर्चा की जाये।

फिर आपने लिखा है कि समरो ट्रायल्स में कोई बयान नहीं लिया जाता। समरो ट्रायल्स में यह होता है कि कुछ समरो लिख लेते हैं। उसके बाद

Now the case should be transferred to another court.

डिस्टर्ब एरिया का आफेन्स नहीं है, शेड्यूल में नहीं है और आप कहते हैं दूसरो जगह भेज दिया जाये। उस समय क्या होगा?

The court will send back that case to another court.

उस समय क्या—डीनोवो ट्रायल होगा या जिनना हो गया है उसके बाद होगा, यह भी क्लैरिफिकेशन इसमें नहीं है।

फिर आपने लिखा है :

He has been qualified for appointment as judge of a High Court.
उसके बाद दूसरे प्रोविजन में है :

He is or has been for a period of not less than one year Sessions Judge or Additional Sessions Judge.

तो यह जो प्रोसीजर आप बनाते हैं समरो ट्रायल करने के लिए और वारन्ट ट्रायल भी करना चाहते हैं—यह सारा हाचपाच बना है और यह हैपोली वर्ड नहीं है। क्रिमिनल प्रोसीजर कोड में समरो ट्रायल है। मैं कहता हूँ जो साम्प्रदायिक तत्व हैं, भिन्डी, अहमदाबाद, राबड़ी, बगैरह में जो घटनाये होती हैं और जो अपराधी होते हैं उनके लिए आपने लिखा है कि उनका बयान कोई भी ले सकता है। बयान लेने के लिए है लेकिन प्राजाक्वूशन को जल्दी करने के लिए क्या तरीका है? क्रिमिनल प्रोसीजर कोड में 170 का प्राजाक्वूशन 15 दिन का हुआ, रिमान्ड 30 दिन की ले ली, 15 दिन की ले लो, चालान वापिस नहीं हुआ तो यह ट्रायल नहीं होगा। तो जहा डिले होना है वहा ऐक्शन नहीं लिया। आपका मतलब था कि जो आफेन्डर्स हैं, जो देश में अशांति फैलाते हैं, जो देश में साम्प्रदायिकता फैलाते हैं उनके खिलाफ जल्द कार्यवाही हो ताकि जल्दी वे पकड़े जा सकें। लेकिन उनके लिए क्या तरीका होगा? आपने लिखा है :

Magistrate can take cognizance—Sessions Judge can take cognizance.

वह किस प्रकार कागिजेंस लेगा जबतक कि सैक्शन 170, क्रिमिनल प्रोसीजर कोड में उनका चालान पेश नहीं हो जाता? चालान पेश होने के लिए आपने क्या प्रोसीजर निकाला है?

तो जो आपकी भावना है उसका मैं स्वागत करता हूँ कि जल्दी ट्रायल हो जाय और सजा मिल जाये लेकिन इस बिल में हम देखते हैं जगह जगह पर लकुना है। आप इसका कोई सेशन ले लीजिए। आपने इसमें कहा है कि कोर्ट में बयान के लिए पर्टिक्युलर पीरियड फिक्स होगा।

It may be for a year or two or any period.

तब तीन महीने का एक्सटेंशन होगा। तब तक? तो फिर नयी कोर्ट्स एस्टैबलिश करने का पर्यंज क्या है? इसलिए मैं चाहता हूँ कि इन सब बातों को देखने के लिए मैं ने सैलेक्ट

कमेटी में इस बिल को भेजने का जो मोशन दिया है उसको मंजूर कर लिया जाये और इस बिल को सैलेक्ट कमेटी को रेफर कर दिया जाये। वरना इस तरह से इस बिल का जो पर्पज है वह फस्ट्रेट हो जायेगा। अगर अमेन्ड-मेन्ट देने में चार पांच घंटे की देरी हो गई हो हालांकि मैंने समय से ही सुबह इसको दे दिया था तो भी इसको इजाजत मिलनी चाहिए। जो बिल आप लाए हैं उसका पर्पज यही है कि ऐसे अपराधियों को जल्दों से सजा मिलनी चाहिए। कई आफसेज में, 302, 304, 376 में ममरां ट्रायल करना नहीं चाहते हैं, वारन्ट ट्रायल होगा तो फिर उन कैसेज में कमे होगा? फिर स्पेशल कोर्ट्स बिठाने का मतलब है सारा पैराफर्नलिया होना चाहिए—क्लार्कस कापस्ट वगैरह। तो यह होना चाहिए कि समरां ट्रायल हो और क्रिमिनल प्रोपीजर कोड में हो जाये

You will have to submit the challan within such and such day.

164 में मनडेद्रा प्राविजन होना चाहिए कि उनका बयान ले लिया जाये ताकि गवाह जो हैं वह बाद में होस्टाइल न हो जाये। मैं समझता हूँ इस बिल को आपने राष्ट्रीय एकता के दृष्टिकोण से रखा है। लेकिन राष्ट्रीय एकता परिषद ने सजेन्स तो और भी दिए हैं कि प्रांतीय क्वेश्ण विदङ्गा नहीं होगा तो वह कहाँ है? राष्ट्रीय एकता को जो भावना है वह तो ठीक है..

That is there. But when you want to explain the whole thing, you must bring it.

इसलिए इस बिल को लाने का जो पर्पज है उसको पूरा करने के लिए जरूरी है कि पहले इसको सैलेक्ट कमेटी के पास भेज दिया जाये जिसके लिए मैंने सिफारिश की है।

SHRI R. D. BHANDARE (Bombay Central): Mr. Chairman, I do not know whether you have accepted the amendment moved by Shri M. C. Daga.

MR. CHAIRMAN: Shri Daga raised the point when the Deputy-Speaker was in the chair and he over-ruled it; he did not accept it. So, I have nothing to say about that.

SHRI R. D. BHANDARE: Sir, I seek your permission to move a motion for referring the Bill to a Joint Select Committee. I hope you are giving me permission.

MR. CHAIRMAN: If he wants to move it, I will give him permission.

SHRI R. D. BHANDARE: I am thankful to you. The reasons for my moving for reference of the Bill to a Joint Committee are that there are a number of lacunae in the Bill and there are many extraneous matters in the Bill. I may also go to the extent of saying that the Bill is not properly drafted and is full of loopholes.

Firstly, in clause 3, on the declaration of disturbed areas the period is not mentioned. It is mentioned that the declaration will be for three months but thereafter the declaration could be extended from time to time. At the same time, there is no specific period laid down as to what extent the declaration will be in existence.

Secondly, clause 5(2) seeks to punish all sorts of persons. There are accessories before facts, at facts and after facts. There are even abettors of all sorts, before, on and after facts are incorporated.

Thirdly, in clause 6 two types of offences are classified. One is that offences which are triable by warrant procedure. If the warrant procedure is sought to be incorporated, then the very purpose of the Bill is defeated. We want the offences to be tried summarily. By what stretch of imagination can one conclude that trial by warrant procedure would be summary trial? So far as summary trial is concerned, the provision is that offences which do not deserve a punishment of more than three years will be tried summarily.

Now, there are a number of offences for which the punishment laid down is three years. In how many cases would you like to have summary trial. There are a number of offences which would sought to be tried under a summary trial under clause 6(3).

Coming to clause 7, as my hon. friend has already mentioned, it gives an unfettered discretion to Special Courts. Taking all these things into consideration and the arguments advanced, I think, you will kindly accept my amendment and the Government will also

[Shri R. D. Bhandare]

accept my amendment that the Bill may be referred to a Joint Committee so that the law could be made fool-proof.

THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS AND IN THE DEPARTMENT OF PERSONNEL (SHRI RAM NAWAS MIRDHA): Sir, in deference to the wishes of the hon. Members who have raised some doubts about some of the provisions in the Bill, the Government is agreeable to refer the Bill to a Joint Select Committee. Though I have a lot of things to say about various points, technical and otherwise, that have been raised by the hon. Members, I will not go into them now. If you would permit me, I could move a motion to that effect or the hon. Member could move it.

MR. CHAIRMAN: I think, it is the desire of the House as well as of the Government that the Bill should be referred to a Joint Committee. According to Rule 345, I waive that condition. I allow him to move it.

SHRI R. D. BHANDARE: I move that the Bill be referred to the Joint Committee consisting of the names which would be submitted later. . .

MR. CHAIRMAN: Not later.

SHRI R. D. BHANDARE: That is also done in a number of cases. Anyway, I read the following names.

I beg to move:

"That the Bill to provide for the speedy trial of certain offences in certain areas and for matters connected therewith be referred to a Joint Committee of the Houses consisting of 45 Members, 30 from this House, namely:—

1. Shri S. C. Besra,
2. Shri Somnath Chatterjee,
3. Prof. Madhu Dandavate,
4. Shri P. K. Deo,
5. Shri C. C. Desai,
6. Shri Devinder Singh Garcha,
7. Shri Karan Singh Yadav,
8. Shri Bhogendra Jha,
9. Shri L. D. Kotoki,
10. Shrimati T. Kakshmikanthamma,
11. Shri Priya Ranjan Das Munsi,
12. Shri Krishna Chandra Pant,

13. Shri Anantrao Patil,
 14. Shri Banamali Pattnaik,
 15. Shri S. Radhakrishnan
 16. Shri G. S. Mishra,
 17. Shri P. Ankineedu Prasada Rao
 18. Shri M. Satyanarayan Rao,
 19. Shri Vayalar Ravi,
 20. Shri Ebrahim Sulaiman Sait,
 21. Shri Erasmo de Sequeira,
 22. Shri Shambhu Nath,
 23. Shri Nawal Kishore Sharma,
 24. Shri Shiva Chandika,
 25. Shri B. R. Shukla,
 26. Shri Mukhtiar Singh Malik,
 27. Shri N. Tombi Singh,
 28. Shri Tayyab Hussain,
 29. Shri Tulsidas Dasappa,
 30. Shri G. Viswanathan;
- and 15 from Rajya Sabha;

that in order to constitute a sitting of the Joint Committee, the quorum shall be one-third of the total number of members of the Joint Committee,

that the Committee shall make a report to the House by the first day of the last week of October, 1972;

that in other respects the Rules of Procedure of this House relating to Parliamentary Committees shall apply with such variations and modifications as the Speaker may make; and

that this House do recommend to Rajya Sabha that Rajya Sabha do join the said Joint Committee and communicate to this House the names of 15 members to be appointed by Rajya Sabha to the Joint Committee."

SHRI DINEN BHATTACHARYA: From our group in the place of Shri Somnath Chatterjee, Shri Biren Dutta's name may be included.

MR. CHAIRMAN: Accepted?

SHRI K. S. CHAVDA (Patan): There is none from our Party.

SHRI R. D. BHANDARE: It may be verified and the name can be added.

SHRI C. CHITTIBABU (Chingleput): In place of Mr. Viswanathan, Mr. J. M. Gowder's name may be included.

श्री महा दीपक सिंह शास्त्री (कासगंज) :
हमारा पार्टी का इम में नाम नहीं है। डा०
लक्ष्मननारायण पांडेय का नाम जोड़ दे।

सभापति महोदय : भगवतियों के नाम
होंगे। आप बैठ जाइये।

SHRI B. V. NAIK (Kanara) : If you
don't mind, I will make a submission.
Most of us here very much interested
in this Bill are likely to be in the pre-
sent or in the future disturbed areas.
It may be communal, it may be lan-
guage. That is why we are preparing
with all earnestness. I think a very
good suggestion has already been made
by Mr. Stephen that the preparation of
the final list may be held over till to-
morrow when all sections could be
consulted and thereafter the final list
could be brought out. It may be held
over.

श्री इन्द्राक यशस्वी (अमरगढ़) : मैं
नाम का बदलाव चाहता हूँ। श्री भोमोन्द्र झा
बुकि बामाह हैं उन लिये मेरे दखलाने हैं कि
उन का जगह पर श्री सज्ज पांडे का नाम बर
दिया जाये।

[شری اسحاق سیوہی : میں نام کی
تبدیلی چاہتا ہوں۔ شری بونگہلدر
جہا چونکہ ہمارے اسٹے ممبر
درخواست ہے کہ انکی جگہ پر شری
سوجو پانڈے کا نام کر دیا جائے]

SHRI R. D. BHANDARE : That is
why I said that the names could be
given later on. I accept the change
suggested by him or any other change
suggested later on.

SHRI C. M. STEPHEN (Muvattu-
puzha) : The discussion on the debate
may be adjourned till tomorrow. A
formal motion may be made.

MR. CHAIRMAN : There is a pro-
posal on behalf of some of the members
on this side. What have you to say?

SHRI B. V. NAIK : I am moving
postponement of the discussion till to-
morrow.

THE MINISTER OF PARLIAMEN-
TARY AFFAIRS AND SHIPPING
AND TRANSPORT (SHRI RAJ

BAHADUR) : If the only point to be
considered is about the adequacy of
the list or the fullness of the list re-
presenting all sections of the House, for
that limited purpose, my colleague is
agreeable that we may hold this up
till tomorrow.

SHRI PILOO MODY (Godhra) : No,
Sir. The Motion can be made to-
morrow along with the list; we don't
nand

MR. CHAIRMAN : The Motion
has been moved.

SHRI PILOO MODY : It can be
postponed, Sir. Names have to go in
today according to the rules.

MR. CHAIRMAN : That cannot be
again moved tomorrow. I have accept-
ed. I have told him to move the Mo-
tion. He has moved that. The hon.
Minister for Parliamentary Affairs says,
if there is a question of analysing the
list, only for that purpose, that can be
postponed. I don't think it would be
proper. I am putting the motion to the
vote of the House.

The question is :

"That the Bill to provide for the
speedy trial of certain offences in cer-
tain areas and for matters connected
therewith be referred to a Joint Com-
mittee of the Houses, consisting of 45
Members, 30 from this House, name-
ly :—

1. Shri S. C. Besra
2. Shri Biren Dutta
3. Prof. Madhu Dandavate
4. Shri P. K. Deo
5. Shri C. C. Desai
6. Shri Devender Singh Garcha
7. Shri Karan Singh Yadav
8. Shri Sarjoo Pandey
9. Shri L. D. Kotoki
10. Shrimati T. Lakshmikanthamma
11. Shri Priya Ranjan Das Munsi
12. Shri Krishna Chandra Pant
13. Shri Anantrao Patil
14. Shri Banamali Patnaik
15. Shri S. Radhakrishnan
16. Shri G. S. Mishra
17. Shri P. Ankineedu Prasada Rao
18. Shri M. Satyanarayan Rao
19. Shri Vayalar Ravi

[Mr. Chairman]

20. Shri Ebrahim Sulaiman Sait
21. Shri Erasmo de Sequera
22. Shri Shambhu Nath
23. Shri Nawal Kishore Sharma
24. Shri Shiva Chandika
25. Shri B. R. Shukla
26. Shri Mukhtiar Singh Malik
27. Shri N. Tombi Singh
28. Shri Tayyab Hussain
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that in order to constitute a sitting of the Joint Committee, the quorum shall be one-third of the total number of members of the Joint Committee;

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that in other respects the Rules of Procedure of this House relating to Parliamentary Committees shall apply with such variations and modifications as the Speaker may make; and

that this House do recommend to Rajya Sabha that Rajya Sabha do join the said Joint Committee and communicate to this House the names of 15 members to be appointed by Rajya Sabha to the Joint Committee."

The motion was adopted.

16.38 hrs.

STATEMENT RE. CURRENT SUGAR SITUATION

MR. CHAIRMAN: We move on to the next item. Prof. Sher Singh to make a statement.

THE MINISTER OF STATE IN THE MINISTRY OF AGRICULTURE (PROF. SHER SINGH): Sir, I rise to make a statement on the current sugar situation, which I am painfully aware is causing serious concern not only to all the Hon'ble Members of the House but also to the public. To facilitate a proper appraisal of the situation in the right perspective, I would state briefly the developments since the control on the prices and distribution of sugar was removed with effect

from the 25th May, 1971. As the House is well aware, the decision to decontrol was taken by the Government in the context of the record production of 42.6 lakhs tonnes of sugar during 1969-70, which resulted in the prices of sugar in the free market coming close to, and in some areas even falling below, the levy prices. As a direct consequence of this development, the lifting of levy sugar, particularly from high-cost zones was tardy, and the stocks with the mills in these zones became disproportionately higher than the stocks with the mills in the other zones. The rationing system had also lost its utility. Principally for these reasons, the Government decided to decontrol sugar.

For about two months after decontrol, the prices of sugar remained fairly easy all over the country. Thereafter, the news about there having been about 3% reduction in the acreage under sugarcane for the season 1971-72 and also of the standing sugarcane crop having suffered damage by floods and excessive rain in the northern parts of India and by prolonged drought in some parts of the southern region, which would result in a decline in sugar production during 1971-72, got round. Consequently, the sugar prices started showing a steadily rising trend. Action taken by the Government to impose quantitative restrictions on the holding of sugar by authorized dealers and to compel the mills to sell every week at least 20% of the monthly releases of sugar and not to refuse to sell if released stocks were available, in an effort to curb hoarding tendencies in a rising market, succeeded to some extent in checking this trend. However, towards the end of 1971, in the context of the mounting emergency arising out of the influx of Bangla Desh refugees and the conflict with Pakistan thereafter, the Government succeeded in arriving at an informal agreement with the industry, whereby, the industry made available with effect from the 1st January, 1972, 60% of the monthly releases of sugar at a fixed price of Rs. 150/- per quintal ex-factory, exclusive of Excise Duty, for D-30 grade for meeting certain emergent requirements and for distribution to domestic consumers through fair price shops. Similarly, a further 3.5% of the monthly release was also made available by the factories at the same price for meeting export commitments.