

[Mr. Speaker]

the University of Delhi, 3 nominations were received. Subsequently one member withdrew his candidature. As the number of the remaining candidates was thus equal to the number of vacancies in the Committee, I declare the following members to be duly elected:

1. Shri Radha Raman.
2. Shrimati Sucheta Kripalani.

#### PREVENTIVE DETENTION (SECOND AMENDMENT) BILL

Shri Madhao Reddi (Adilabad): I beg to present 65 petitions signed by 388 petitioners regarding the Preventive Detention (Second Amendment) Bill, 1952.

#### PRIVILEGES COMMITTEE

#### EXTENSION OF TIME FOR PRESENTATION OF REPORT ON ARREST OF SHRI DASARATHA DEB

The Minister of Home affairs and States (Dr. Katju): I beg to move:

"That the time for the presentation of the Report of the Committee of Privileges on the question of privilege involved in the arrest of Shri Dasaratha Deb, M.P., be extended upto Wednesday, the 23rd July, 1952."

Mr. Speaker: The question is:

"That the time for the presentation of the Report of the Committee of Privileges on the question of privilege involved in the arrest of Shri Dasaratha Deb, M.P., be extended upto Wednesday, the 23rd July, 1952."

The motion was adopted.

#### CENTRAL TEA BOARD (AMENDMENT) BILL

The Ministry of Commerce and Industry (Shri T. T. Krishnamachari): I beg to move for leave to introduce a Bill further to amend the Central Tea Board Act, 1949.

Mr. Speaker: The question is:

"That leave be granted to introduce a Bill further to amend the Central Tea Board Act, 1949."

The motion was adopted

Shri T. T. Krishnamachari: I introduce the Bill.

#### CRIMINAL LAW AMENDMENT BILL

Mr. Speaker: The House will now proceed with the further consideration of the Bill further to amend the Indian Penal Code and the Code of Criminal Procedure, 1898, and to provide for a more speedy trial of certain offences.

Yesterday the House disposed of clause 2. We will now go to clause 3 and the further clauses.

#### Clause 3. (Insertion of new Section 165A)

Mr. Speaker: Mr. Chacko's amendment is out of order, as it is a negative one. If he wants he can vote against the clause.

Pandit Munishwar Datt Upadhyay (Pratapgarh Distt.—East): I do not wish to move my amendment.

Mr. Speaker: The question is:

"That clause 3 stand part of the Bill."

The motion was adopted

Clause 3 was added to the Bill.

Clause 4 was added to the Bill.

#### Clause 5. (Amendment of Section 337)

Mr. Speaker: Mr. Chacko's amendment is out of order; he will get a chance to speak, if he wants.

Shri M. L. Agrawal (Pilibhit Distt. cum Bareilly Distt.—East): I beg to move:

In page 1, line 25, after "inserted" add—

'and after the figures "435" the figures "465, 466, 468, 471" shall be inserted.'

I want to add these sections in Section 337 of the Criminal Procedure Code. These are sections relating to offences which are investigated by the Special Police Establishment and they are offences of no less a serious nature than the offences for which provision has been made in this Bill to be included in section 337. These offences involve sometimes conspiracies of more accused than one. For these offences also, if the provision of section 337 is extended, it would be for the benefit of investigations.

Dr. P. S. Deshmukh (Amravati East): On a point of order, Sir. I think the amendment is beyond the scope of the Bill—it extends the scope of the Bill.

Mr. Speaker: I have not examined it from that angle.

**The Minister of Home affairs and States (Dr. Katju):** May I just enquire where the figure "435" occurs in the Bill?

**Shri M. L. Agrawal:** It is in the section of the original Act.

**Mr. Speaker:** It is only a slight change of the wording and can be allowed, but in view of the point of order raised by Dr. Deshmukh I should like to know what these particular sections 465, 466 etc. refer to.

**Dr. Katju:** These are all Forgery sections. They have nothing to do with bribe-taking or bribe-giving.

**Mr. Speaker:** Then, I think I must accept the point of order raised by Dr. Deshmukh that this will fall outside the scope of the Bill. So I am not placing it before the House.

**Pandit Munishwar Datt Upadhyay:** I beg to move:

In page 1, line 38, for "two" substitute "three".

Although the recommendation of the Committee is that only two years' time should be given, still I think that two years' time would not be sufficient for the experiment, because in two years' time only a small number of cases might come in and that period might not be quite sufficient. I therefore want to increase it to three years, and I would request the hon. Minister to accept the amendment. If, however, he is not accepting it I would not press it.

**Mr. Speaker:** Does the hon. Minister show any inclination to accept the amendment?

**Dr. Katju:** I am following the recommendation of the Tek Chand Committee. They have said two years and I have accepted two years.

**Mr. Speaker:** But what is his mind now? I take it he is not accepting it. As the hon. Member is not keen on pressing his amendment I am not placing it before the House.

**Shri M. L. Agrawal:** I do not propose to move my amendment (No. 26) to increase the period to five years, as the hon. Minister is not prepared to accept this amendment.

**Mr. Speaker:** There are no other amendments.

The question is:

"That clause 5 stand part of the Bill."

The motion was adopted.

Clause 5 was added to the Bill.

Clause 6.—Power to appoint special judges).

**Pandit Munishwar Datt Upadhyay:** I beg to move:

In page 2, line 4, for "to try" substitute "with reference to number of such cases of".

My submission is that the number of special judges should be according to the number of cases. Special judges are going to be appointed for trying these cases. It is, therefore, necessary that the number of cases should also be taken into consideration when the appointment of these special judges is being made. That is why I want that the words "with reference to number of such cases of" should be substituted for the words "to try".

**Shri Gadgil (Poona Central):** It is more or less an administrative matter and not one to be put in the statute.

**Mr. Speaker:** I shall put it to the House only if the hon. Minister is inclined to agree.

**Dr. Katju:** I decline to accept this amendment for the very simple reason that by the structure of the Bill all the primary cases will be tried by these special judges in order to have an expeditious trial. And the special judges may be Sessions Judges, Additional Sessions Judges or, if an amendment that is coming is accepted, Assistant Sessions Judges. I imagine that the Government and every State Government will notify at once that these people are special judges within the meaning of this provision. We do not know how many cases will be there.

**Pandit Munishwar Datt Upadhyay:** Then I do not wish to press my amendment.

**Mr. Speaker:** So I need not place it before the House.

**Shri Sinhasan Singh (Gorakhpur Distt.—South):** I beg to move:

In page 2, line 11, omit "or has been".

This refers to sub-clause (2) of clause 6. My reason for moving this amendment is that the words "has been" will lead to the appointment of retired people as special judges. I have some apprehension that when retired people are engaged they have no fear of punishment and feel they have nothing to lose. In fact one of the main causes of corruption in my opinion is that many retired hands are re-employed in government service. If this clause which enables Govern-

[Shri Sinhasan Singh]

ment to appoint as special judges retired hands is adopted, my fear is that instead of helping the cause of justice and the removal of corruption these retired hands who have no future or prospects of promotion etc. may themselves become a prey to corruption and acquit persons. The report shows that already the proportion of acquittals is fifty per cent. because on very technical grounds people are acquitted in criminal cases. These are more of acquittals than convictions. I know of cases where officials prosecuted for offences of high corruption and who were convicted by the lower courts have been acquitted in the High Court on mere non-proof of certain facts, and such persons have been re-engaged and they have made their fortune.

In this case at least I appeal to the hon. Minister that he should give some rest to the persons who have retired so that they may serve the public as honorary men and not as public servants again.

The other point is that when these retired hands are taken into service again, they bar the coming in of youngsters, and thereby the unemployment problem will be accentuated. Let the retired people not be re-engaged. Let the younger generation, who have a future, be engaged. They will care for the country, and most of the problems would be solved. In China, the hon. lady Member told us that there is this spirit of anti-corruption. That is because they are all young people who have come in. They have that spirit. But here retired people are re-engaged. I would therefore request Government to consider these problems and not to re-engage any retired hands unless they come honorarily and the service is of an honorary nature.

**An Hon. Member:** More dangerous.

**Mr. Speaker:** Order, order. Let him proceed.

**Shri Sinhasan Singh:** Otherwise they may themselves fall a prey to corruption. My submission therefore is that they should not be re-engaged. By this amendment I seek to remove the words "has been". This will also give opportunities of promotion to Assistant Sessions Judges, and if the hon. Minister is going to accept the other amendment about Assistant Sessions Judges, many of the Assistant Sessions Judges can be appointed as special judges and they will acquit themselves more creditably than the retired hands.

**Dr. Katju:** There are two reasons why I am unable to accept this amendment. One is that I know that very

few Sessions Judges are willing to serve as honorary magistrates. Whatever may be my personal opinion of the institution of honorary magistrates.....

**Shri Sinhasan Singh:** I have not said honorary magistrates but special judges.

**Dr. Katju:** But a special judge who does not get a salary is an honorary magistrate. It comes to the same thing.

**Shri Sinhasan Singh:** I am afraid the hon. Minister has misunderstood my point. Probably he thinks that I talked of the appointment of honorary judges and honorary magistrates. I never said so. What I said was that they should not be appointed at all. There is no question of honorary or with pay. My point was that retired men should not be given the task of special judges.

**Dr. Katju:** I take it that his amendment is that the people who should be appointed Special Judges should be people who have been additional sessions judges or sessions judges or assistant sessions judges. Am I right?

**Shri Sinhasan Singh:** No. Where the judges...

**Mr. Speaker:** Order, order. There will be no end to this kind of discussion. His point is that the words 'has been' show that, at the time of appointment, the person need not necessarily be a district judge or a sessions judge. His conclusion therefore is that the Bill thinks of retired people. Perhaps, he has neglected the other part that, a person may not be working as a district or sessions judge at that time, but may be acting in another capacity. They need not necessarily be retired people. That is the other aspect.

**Dr. Katju:** I take it, then, that there is no point in the amendment at all. The idea is that a man who is appointed a Special judge should be of certain eminence. He must have been a sessions judge. Supposing he is holding some other office; there is no harm in his being appointed as a special judge. So far as honorary service is concerned, I wish to say ...

**Mr. Speaker:** His point is that retired people should not be taken.

**Dr. Katju:** I will not take retired people; we will issue instructions that they should not be taken.

**Shri S. S. More (Sholapur):** Whom does the Bill refer to by the use of the expression "has been"?

**Mr. Speaker:** It is plain English. The hon. Member can construe it himself. The expression 'has been' might include people who once upon a time were sessions judge, etc. and therefore even retired people who have acted as sessions judges may be included in this. The other possible interpretation is, sometime prior to his appointment, he may have been a district judge or an assistant sessions judge, though at the date of appointment he may be working in some other capacity.

I take it that the hon. Minister is not going to accept the amendment.

**Dr. Katju:** Yes.

**Mr. Speaker:** Does the hon. Member want me to put the amendment to the House?

**Shri Sinhasan Singh:** If the hon. Minister accepts the principle and that by the issue of special instructions, retired judges are not to be appointed, I shall withdraw the amendment.

**Mr. Speaker:** He is making a conditional request. The interpretation will be according to the wording of the Bill and not according to what the hon. Minister has in his mind. I want an answer in plain terms whether the hon. Member presses his amendment. Then, I shall place it to the House.

**Shri Sinhasan Singh:** It is for the hon. Minister to accept...

**Mr. Speaker:** The hon. Minister is not going to accept it. Does he want me to put the amendment to the House?

**Shri Sinhasan Singh:** In view of the...

**Mr. Speaker:** I take it that he does not press his amendment.

**Shri Sinhasan Singh:** I do not.

**Shri S. S. More:** May I rise to a point of order, Sir? Can the Whip of the Government party make signs and gestures to suppress the hon. Member?

**Mr. Speaker:** It is not a point of order; it is a point of propriety. It is better if he does not do so. So, I am not placing the amendment before the House.

**Shri K. C. Sodhia (Sagar):** I am not moving my amendment.

*Amendment made:*

In page 2, lines 11 and 12, after "additional sessions judge" insert "or assistant sessions judge".

—[Shri Venkataraman]

**Pandit Munishwar Datu Upadhyay:** I am not moving my amendment.

**Mr. Speaker:** That disposes of all the amendments to clause 6.

The question is:

"That clause 6, as amended, stand part of the Bill."

The motion was adopted.

Clause 6, as amended, was added to the Bill.

**Clause 7.—(Cases triable by Special Judges).**

**Shri S. V. Ramaswamy (Salem):** I beg to move:

In page 2, omit lines 21 to 23.

I move this amendment for this reason. You will see, Sir, that the clause says:

"When trying any case, a special judge may also try any offence other than an offence specified in section 6 with which the accused may, under the Code of Criminal Procedure, 1898, be charged at the same trial."

My submission is this. It may complicate the trial. If, for instance, he is charged with murder or dacoity also, it will complicate the trial, because, for dacoity or murder, the procedure laid down under the Criminal Procedure Code is different. The accused will be entitled to committal proceedings. If he comes under this Act, he will be deprived of this valuable procedure. I therefore submit that in order to keep this class of cases merely apart, this clause be omitted, so that other offences are not lugged in and tried jointly.

**Mr. Speaker:** He means that the entire clause 3 be omitted.

**Shri S. V. Ramaswamy:** yes; to avoid complications, so that at the trial only the offences mentioned in section 6 may be tried.

**Dr. Katju:** I have very carefully, out of respect for my learned friend, considered this question. In the Criminal Procedure Code, as you might be aware, Sir, there are distinct sections which provide under what circumstances charges may be tried together. The general rule is, one trial for one charge. I cannot possibly conceive of any contingency where murder or dacoity may be considered together with bribe taking. They are not connected with each other. It really may be hampering the trial if we say, without careful examination, that these words may be removed. I suggest, let the general provisions of the Criminal Procedure Code remain.

[Dr. Katju]

I am certain that if any judge has before him in a bribery case a charge of murder, he will himself say, I do not want to take it. Therefore, I oppose this amendment.

**Mr. Speaker:** Do I put it to the House?

**Shri S. V. Ramaswamy:** Not necessary.

**Mr. Speaker:** The question is:

"That clause 7 stand part of the Bill."

The motion was adopted.

Clause 7 was added to the Bill.

**Clause 8.—(Procedure and powers etc.)**

**Pandit Munishwar Datt Upadhyay:** I am not moving my amendment.

**Shri P. T. Chacko (Meenachil):** This amendment of mine is consequential to my amendment to clause 5. I am not moving my amendment, but I only wish to request the hon. Home Minister to say whether the judges should not be vested with power to pardon at the time of enquiry and investigation.

**Mr. Speaker:** What about his other amendment: substitution of 'such' for 'an'?

**Shri P. T. Chacko:** That is also consequential.

**Dr. Katju:** It is not necessary.

**Mr. Speaker:** Do I put it to the House?

**Shri P. T. Chacko:** No.

**Mr. Speaker:** The question is:

"That clause 8 stand part of the Bill."

The motion was adopted.

Clause 8 was added to the Bill.

Clause 9 was added to the Bill.

**New clause 10.**

*Amendment made*

In page 3, after line 6, add:

"10. *Transfer of certain pending cases.*—All cases triable by a Special Judge under section 7 which immediately before the commencement of this Act were pending before any magistrate shall, on such commencement, be forwarded for trial to the special Judge having jurisdiction over such cases."

—[Shri Venkataraman]

New Clause 10 was added to the Bill.

Clause 1 was added to the Bill.

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

**Dr. Katju:** I beg to move:

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

**Mr. Speaker:** Motion moved:

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

**बाबू रामनारायण सिंह (हजारीवाग पश्चिम):** सभापति महोदय, इस दो तीन महीने की बैठक के अन्दर आज यह पहला अवसर है कि आप ने मेरे ऊपर दृष्टिपात किया। इस के लिये मैं आप को बहुत बहुत धन्यवाद देता हूँ।

सभापति महोदय, इस विधेयक का मैं साधारण तरीके से स्वागत करता हूँ। मुझे बड़ी प्रसन्नता होती और मैं अपने को बहुत सौभाग्यवान समझता यदि इस विधेयक का मैं उत्साह के साथ और तहेदिल से समर्थन कर सकता। प्रश्न यह होता है कि इस का समर्थन करते हुए मैं तहेदिल से इसका समर्थन क्यों नहीं करता। उस की वजह है, सभापति महोदय ! और वह वजह यह है कि इस तरह के कानून तो पहले ही से हमारे देश में बहुत हैं। इस में नई बात क्या हुई है। इस में तो यह है कि एक स्पेशल मजिस्ट्रेट (Special Magistrate) बहाल होंगे और दूसरी बात यह है कि जो घूस देने वाले हैं उन की सजा बढ़ा दी गई है। इस के अलावा और तो कुछ नहीं है। लेकिन जो कुछ हो। इस विधेयक के अन्दर यद्यपि बहुत कुछ नहीं है, लेकिन यदि गृहमंत्री या उन की सरकार में मुझे यह भरोसा होता कि ये लोग इस कानून को कार्य रूप में परिणत करेंगे तभी मैं तहेदिल से इस का स्वागत करता। सभापति महोदय,

आप कई बार यहां पर यह कह चुके हैं कि यहां पर जो कुछ होता है उस पर हर एक सदस्य को ध्यान देना चाहिये और गम्भीरता-पूर्वक विचार करना चाहिये क्योंकि इस भवन में ३५ करोड़ भारतवासियों के भाग्य का निर्णय होता रहता है। और यहां पर जो कार्य होता है उस का असर सारे देश पर पड़ता है। यह आप ने बहुत सुन्दर कहा है। लेकिन उस का असर कहां कहां पड़ता है यह कहना मुश्किल है। सभापति महोदय, यह विषय तो बहुत गम्भीर है। और जब आप की गैर हाज़िरी में इस पर बहस हो रही थी तो कुछ लोगों ने इस के बारे में भी पार्टी-बन्दी की बात कही थी। यह बात मेरी समझ में नहीं आती।

यह देश का दुर्भाग्य है कि लोग इतने दलों में बटे हुए हैं। लेकिन यह तो जानना चाहिये कि दलबन्दी का जो विषय है उस से बढ़ कर के भी हम लोगों का कोई सम्बन्ध है। हम लोग ३५ करोड़ भारतवासी भारतमाता की सन्तान हैं यह तो सब से बड़ा सम्बन्ध है। यह जो रिश्ततखोरी या घूसखोरी चल रही है इस के लिये तो लज्जा सब को होनी चाहिये चाहे वह कांग्रेस-मैन (Congressmen) हों या चाहे वह कोई सरकारी कर्मचारी हों। कोई भी पाप करता है तो उस के लिये हम सब को लज्जित होता चाहिये, मुझे भी लज्जित होना चाहिये, मेरे लिये भी यह दुःख और शर्म की बात होनी चाहिये। इसी तरह से अगर मुझ से कोई पाप होता हो इस के लिये सब के दिल में दुःख होना चाहिये और सब का सर शर्म से नीचा होना चाहिये। ऐसे विषयों में दलबन्दी का सवाल नहीं होना चाहिये। यह जो रिश्ततखोरी और अनाचार है यह तो सारे देश का रोग है और इस को दूर करना हर एक आदमी का

कर्त्तव्य है। कल भाषण करते हुए मेरे मित्र अलगूराय शास्त्री जी ने बहुत सुन्दर कथा कह दी कि फ्रांस में जो सरकारी कर्मचारी हैं वे बड़े पवित्र हैं और वे लोग भ्रष्ट नहीं किये जा सकते। यह सुनकर मुझे बड़ी खुशी हुई। लेकिन उस के साथ ही एक बात मैं ने और सुनी है कि जो मैं सारे देश को और सारी संसद् को सुना देना चाहता हूँ कि जब वहां सरकारी कर्मचारी पर घूसखोरी का दोष लगाया जाता है तो, मैं ठीक से तो नहीं जानता लेकिन जो मैं ने सुना है वह कहता हूँ, उस दोष को सरकारी कर्मचारी के विरुद्ध प्रमाणित करने का दायित्व दोष लगाने वाले पर नहीं रहता बल्कि वहां यह नियम है कि वह सरकारी कर्मचारी ही यह प्रमाणित करे कि वह निर्दोष है। वहां यह अनुमान कर लिया जाता है कि जब इस पर दोष लगाया जाता है तो यह दोषी होगा ही। इसलिये जिस के उपर दोष लगाया गया है उस को पहले यह प्रमाणित करना पड़ता है कि उस का दोष नहीं है। यह सुनने में तो बहुत कठिन मालूम पड़ता है और शायद हमारे गृहमंत्री इस को पसन्द नहीं करेंगे और वह कहेंगे कि इस तरह तो यहां लोगों को बहुत कठिनाई हों जायेगी। लेकिन मैं गृहमंत्री जी को कहे देता हूँ कि वह इस पर गौर करें और उन के द्वारा मैं उन की सरकार को यह कहे देता हूँ कि यदि इस देश से . . . . .

**Mr. Speaker:** He may come to the Bill and remember the scope of the discussion in the third reading. He is going into the general aspect again which would have been better for the first reading, and not at the third reading stage.

**बाबू रामनारायण सिंह :** सभापति महोदय, जो जो बातें यहां हो रही थीं उन्हीं का प्रसंग मैं लाया हूँ जो दो तीन बातें

[ बाबू रामनारायण सिंह ]

मेरे दिल में थीं वह मैं ने पहले ही कह दी हैं। आपने केवल एक बात का बन्दोबस्त किया है कि जो रिस्वत देने वाले हैं उन की सजा बढ़ा दी है और एक विशेष को (court) कायम कर दिया है। यह ठीक है और इस का असर आप चाहें तो बहुत कुछ हो सकता है। तो मैं यह कह रहा था कि यदि सरकार की यह नीयत है कि इस देश से घूसखोरी खत्म हो तो उस के लिये जैसा कि हमने फ्रांस के बारे में सुना है उसी तरह का कोई प्रबन्ध करना होगा। लेकिन सब से बड़ी बात तो यह है कि, सभापति महोदय, जैसा कि कुछ लोगों ने और गृहमंत्री ने कहा कि प्रश्न तो यह है कि घूस देने वाले पहले खत्म हों या घूस लेने वाले खत्म हों। लोग कहते हैं कि जब तक घूस देने वाले रहेंगे, घूस लेने वाले भी रहेंगे। सभापति महोदय, हमारी समझ में यह एक थोथी बहस है। यह जानी हुई बात है कि देश में छोटे बड़े कितने सरकारी कर्मचारी होंगे। ये लोग एक करोड़ से अधिक नहीं होंगे और ये सरकार के अधीन हैं, सरकार से वेतन पाते हैं और सरकार के हुक्म के अन्दर रहते हैं। . . . . .

**Mr. Speaker:** I am afraid I cannot permit the hon. Member to go on repeating the points that have been already discussed at the first reading. The House has accepted the proposition that the bribe giver is to be punished on the same level as the bribe taker. Therefore, it is no use now pursuing that point. Now, if the hon. Member wishes to support the Bill, he can say that he supports it. There is not then much to speak about it. If he says he wants to oppose the Bill, he can state in short the points of opposition. That is the scope of the third reading of the Bill.

**Shri S. S. More:** Even when the principle has been accepted, can we not say to Government anything on how it is to be implemented?

**Mr. Speaker:** It is not permissible at this stage of the Bill. This stage of the discussion is limited in scope. If again points are raised in one form

or another on the plea of making suggestions for implementation, the same points will be covered and there will be repetition of the debate. This is the settled principle of discussion in the House.

**Shri S. S. More:** If we raise points which are not repeated?

**Mr. Speaker:** Those points could have been said at the first stage. The hon. Member perhaps practises in courts of law and knows what points should be raised at a particular stage. He cannot raise points again by way of reply.

Has he got any other point?

**बाबू रामनारायण सिंह :** सभापति महोदय, यह तो जैसा मैं ने पहले ही कहा था कि मैं इस का विरोध तो नहीं कर रहा हूँ मैं ने तो साधारण तरीके से इस का स्वागत किया है। लेकिन, सभापति महोदय, यह तो अभिलाषा सब की होती है कि जब कोई नियम आप पास कर रहे हैं या लागू कर रहे हैं तो उस का ठीक तरह से पालन होना चाहिये जिस से देश को कुछ लाभ हो। नहीं तो यदि हम यहां नियम पास करते गये और लायब्रेरी (library) में रखते गये तो इस से क्या लाभ होगा। सभापति महोदय, यह कहना तो हमारा धर्म है और इस में मैं ज्यादा समय भी नहीं लूंगा। अब मैं खत्म करता हूँ।

**Mr. Speaker:** I now call upon Mr. Vallatharas.

**बाबू रामनारायण सिंह :** मैं एक दो मिनट और लूंगा। मैं ने तो कहा कि मैं खत्म करता हूँ और इस के माने यह होते हैं कि मैं एक दो मिनट और लूंगा।

**Mr. Speaker:** The hon. Member is going on without adding anything to the usefulness of the debate so far as any points are concerned. I wish that the hon. Member only advances his arguments without going further into other things. What is his argument now, in this third reading stage of the Bill?

**बाबू रामनारायण सिंह :** मेरी बहस इस जगह पर यह है कि जैसे लोग कहते थे कि जब तक घूस देने वाले रहेंगे तब तक घूस लेने वाले भी रहेंगे, यह गलत है। घूस देने वालों में तो सारा समाज हो सकता है, ३५ करोड़ भारतवासी हो सकते हैं ! लेकिन घूस देने वालों में तो सरकारी लोग ही हो सकते हैं, जिन की संख्या एक करोड़ से अधिक नहीं है। तो सरकार चाहे तो एक करोड़ को ज्यादा आसानी से ठीक कर सकती है और सारे समाज को पवित्र करना ज्यादा कठिन है। इसलिये यह बहस नहीं आनी चाहिये कि जब तक घूस देने वाले रहेंगे तब तक घूस लेने वाले भी रहेंगे।

तो खैर, इतना ही कह कर आप की इच्छा है तो मैं बैठ जाता हूँ। लेकिन यह बहस नहीं आनी चाहिये, यह थोड़ी बहस है। अगर सरकार चाहती है कि घूसखोरी बन्द हो तो उन को मुस्तैदी के साथ काम करना होगा, जिस तरह से फ्रांस में काम होता है। इस के साथ मैं यह भी कहे देता हूँ कि अगर घूसखोरी बन्द नहीं होती है तो न्याय नहीं हो सकता है और यदि न्याय नहीं होता तो ऐसी सरकार के रहने की भी जरूरत नहीं है।

**Shri Vallatharas (Pudukkottai):** The only object of this Bill seems to be to provide for a speedy disposal of cases in respect of corruption, and an enhanced punishment for persons involved in that offence. At the outset, the hon. Home Minister was not pleased to refer this matter to a Select Committee. There are very serious complications which he will have to come across in the working of the Bill as passed at this juncture. I would particularly solicit his attention to some of the important things which he will have to amend in the general body of the Criminal Procedure Code.

I would first invite his attention to Section 28 of the Criminal Procedure Code:

“Subject to the other provisions of this Code, any offence under the Indian Penal Code may be

tried by a High Court, by the Court of Sessions or by any other Court by which such offence is shown in the eighth column of the second schedule, to be triable.”

A reference to the 8th column shows that the offences mentioned are those coming under Sections 161 and 165 of the Penal Code. As against that, there are about five or six other columns relating to non-bailable offences, offences where arrest can be made with or without warrant, non-compoundable offences etc., and also the sentence that may be awarded, the highest sentence being two years. If we are now to incorporate this Section 165A after 165 in the Second Schedule, all the formalities in the other columns also have to be carried through,—viz. non-bailable, or bailable, or whether summons is to be sent, whether a warrant is to be taken or not, or by what court the offence has to be tried. It must be mentioned there that the case has to be tried by the Court of the Special Judge. Section 165A must be incorporated in the second schedule, and necessary corrections also have to be made in that schedule in respect of Section 165 also. These two things deserve the consideration of the hon. the Minister.

Then I come to Section 14. There are certain things here again which the hon. Minister will have to consider. It would have been better if this Bill had been referred to a Select Committee. As it is, I am not attacking the Bill in its entirety. I wish that there is some procedure by which offenders must be tried seriously and also quickly. I am in consonance with the spirit of the Bill, but in respect of other matters, I do not want the law in the matter to bloat as a rank of mass unwieldy woe. Whenever you take up any Statute for reference, it must be simple and concise, and any amendment or addition that has to be made, must be incorporated as far as possible in the main body of the existing provisions themselves. A separate provision, just as is contemplated in the Amending Bill before us now, should not be there. For instance, the separate provision for the appointment of a special judge can be done away with. In my view, I feel that it can be incorporated as a clause under Section 9 of the Criminal Procedure Code.

In Section 14 which refers to the magistrates it is stated:

“The State Government may confer upon any person all or any

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of the powers...in respect of particular cases or particular classes of cases...".

In regard to cases outside the Presidency, such magistrates may be called special magistrates and shall be appointed for such time as the State Government may by general or special order, direct.

Then, Clauses 3 and 4 of Section 9 reads:

"The State Government may also appoint Additional Sessions Judges and Assistant Sessions Judges to exercise jurisdiction in one or more of such Courts." "A Sessions Judge of one sessions division may be appointed by the State Government to be also an Additional Sessions Judge of another Division."

Clause 5 of the present Bill might have been added after this. The power to appoint a special judge could have been vested in the State Government. This provision might have been incorporated just in one sentence, in this Section 9, without any necessity for a separate clause as contemplated in the Amending Bill. Now when we are to refer to the Criminal Procedure Code, we are forced to refer to a separate Act. This is a highly inconvenient thing. The whole thing could have been very economically accomplished by the addition of a clause to Section 9 where the provision already exists for the appointment of Additional Sessions Judges and Assistant Sessions Judges, and it can be availed of, in the case of the special judges also.

Then I come to the amendment of Section 164, contemplated in this Bill. It reads:

"In the course of an investigation under this Chapter, or at any time afterwards or before the commencement of the inquiry, or trial..."

The Amendment proposes to add: 'or under any other law for the time being in force.' Under this Chapter, all offences that have to be investigated by a police officer come within its scope. I do not remember any offence which can be investigated by a police officer, but which does not come under this chapter. If so, what is the special significance for the words 'Or under any other law...' If this reference is to the Prevention of Corruption Act,

or anything connected with that, I think that offence will also have to be investigated by a police officer. No private person can take charge of the investigation. As a matter of fact, the words 'or under any other law' has no meaning, in these circumstances. If it is said that the words refer only to the Prevention of Corruption Act, we do not know how they are going to be interpreted in the future and what an amount of inconvenience may be caused later. The present law, as it is, is a very compact one and so far there has been no difficulty in the interpretation of Section 164. But if we expand it further by means of this Amending Bill, without any significance or meaning, I feel it is bound to create difficulties. I would like to know what is the other law in so far as this Statute is concerned, the offences under which cannot be brought under this chapter of the Criminal Procedure code. Anyhow, that is also a matter which will have to be considered.

Then I come to Sections 337, 338, 339 and 339A. There is a very great doubt in my mind in regard to these, in view of the Amending Bill. Of course, it deserves the attention of everybody as well. Sections 337 and 338 relate to the provisions for the grant of a pardon. When a person who accepts the pardon does not fulfil his obligation of speaking entirely in accordance with his undertaking, then he commits a breach, and for that he has to be punished. By whom he is to be punished, I should like to know.

Section 339 provides the procedure for trial of persons. If a man who has been tendered pardon and who has accepted pardon, commits a breach, then he has to be tried under section 339. Under Section 339-A there is a special procedure inserted by Act 18 of 1923. "The court trying under section 339 a person who has accepted a tender of pardon shall (a) if the Court is a High Court or a Court of Sessions... before the charge is read out and explained to the accused under section 271(1)". So only commitment comes there. Just before reading the charge, there is an obligation placed upon him in respect of the person who had failed to fulfil his terms under the pardon. This is an important point to be considered—the operation of section 271(1).

Then clause (b): "or if the court is the court of a Magistrate, before the evidence of the witness for the prosecution is taken..." Here the accused is asked whether he pleads that he has complied with the conditions under

which the tender of pardon was made. Whether it is the High Court in its original jurisdiction or whether it is the Court of Sessions in the mofussil, it is one aspect. Regarding the Magistrate's Court it is the second aspect. In these places whichever court happens to try the person who had failed to fulfil the conditions of the pardon, there is the statutory obligation enabling the accused to plead that he has complied with the conditions under which the tender of pardon was made. The position is this. Before the charges are read out by a Sessions Court or by a High Court, it must ask the accused, 'Have you fulfilled the conditions under the pardon?' Supposing the accused says: "I have fulfilled", then, a regular trial must be had upon it. It is part of the proceedings. It precedes the trial for the main offence for which he must be tried. He must be tried on his plea that he had not committed a breach of the pardon. So also the Magistrate must do it. This is the obligation. Now, I envisage this position. "If the accused does so plead, the Court shall record the plea and proceed with the trial and the jury or the court with as the case may be, shall before judgment is passed in the case find whether or not the accused has complied with the conditions of the pardon and if it is found that he has so complied the court shall, notwithstanding anything contained in this code pass judgment of acquittal". This is the law now. Now the Special Judge is to be considered a Sessions Judge for all purposes. The procedure for trying the case is only a warrant case procedure. He is not a Magistrate. His status and all the implications and complications that arise out of his position are connected with the status of a regular Sessions Judge. When will the Special Judge be obliged to ask the accused this question, whether he had committed a breach of the pardon or not? If it is a Magistrate, before the prosecution evidence; if it is a Sessions court or High Court, before the charges are made. He is in a *Trisanku Swargam*. He cannot act as a Magistrate and he cannot act as a Sessions Judge. So in the case of warrant case procedure, his status is of a Sessions Judge. When will he be able to put this question to the accused? Of course, I leave it to you for consideration. It cannot be argued by me at this juncture.

We must all be able to see that a man must be punished, but on the other hand, no innocent man can be punished. Above all, there must be a trial—at least a farce of a trial. The Special Judge must ask, the Magistrate

must ask, the High Court must ask, the Sessions Judge must ask,—the High Court, the Sessions Judge and the Magistrate can at certain stages put this question, but when will the Special Judge put the question? I leave it to the hon. Minister to consider this position.

Then I would like to say something regarding the position of taking cognizance of cases. Why I point out all these things is not because that I am worried about multiplying sections or making so many episodes of the Indian Penal Code or the Criminal Procedure Code, but these are very important laws in this country and it depends upon the culture of the entire nation and the legal intelligence of the nation, that it must be sensible, it must be concise and it must not give room for bloating. That is what I have to say. As it is, the statute is bloated and it requires to be amended and reduced to some lesser size. But as it is, we cannot take up that job now. But Government is anxious to see that something is done. I agree with their intention, but on the other hand, the arm, the instrument that they wield should not be unwieldy, should not be confused and at every time complications must not arise in such a way that the work of the regular courts is multiplied. I will come to that later. In taking cognizance of these offences Section 190 says:

"Cognizance of offences by Magistrates, that is, the Presidency Magistrate, District Magistrate, Sub-divisional Magistrate...".

Mr. Speaker: Order, order. May I suggest to the hon. Member that whatever suggestions he wants to make may be made by him. He need not go into details and discuss all the sections. The hon. Minister himself is a lawyer and references of this length will be quite unnecessary. Otherwise his speech may become disproportionate not only in length but in contents.

10 A.M.

Shri Vallatharas: I am really grateful to you, Sir. I view that the hon. Minister's understanding is not enough for us. He may be highly intelligent; I really bow to his mature intelligence.

Mr. Speaker: Order order. He need not presume that unless he enters into every detail, the hon. Minister will not understand his points. He can just point out the points. My point is that all these details should have come at the first stage. Instead of that, to start a discussion of that now, will be a little out of place. He wants the legislation to be of the best type and he is perfectly in order when he points out certain defects which he

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would like the hon. Minister to consider and rectify later by further legislation, if necessary. That will be quite in order, but beyond that he will be going into details too much.

**Shri Vallatharas:** The difficulty has arisen this way. When the Bill was under general discussion, I wanted a chance but I couldn't get it.

**Mr. Speaker:** He could not take this up now.

**Shri Vallatharas:** I was thirsting for a chance, but I did not get it. At the same time, the Chair ruled that sufficient discussion had taken place. It was a pitiable thing. I could not go against the ruling of the Chair. Now as you are pleased to observe, I will curtail myself in all these details.

So far as the cognizance of offences is concerned, there are special provisions in the Criminal Procedure Code for Magistrates etc. Instead of putting it separately in the Bill, that can be added as an amendment to the particular section 190 or 193 or whatever it may be. That could have all been avoided, because section 194 refers to cognizance by the High Court, section 193 refers to cognizance by the Sessions Court and then section 190 refers to cognizance by District Magistrates and Sub-divisional Magistrates. There it can be amended without resorting to an independent section in the Bill.

In the matter of appeal, an appeal from an Assistant Sessions Judge lies to a District Judge in many cases. An appeal from a regular Sessions Judge, whether he is an additional Sessions Judge or a District Original Sessions Judge goes to the High Court. Now, as per the amendment of Mr. Venkataraman the Assistant Sessions Judge should also be included here. What is the status of the Special Judge? Will he act as an Assistant Sessions Judge or as a regular additional Sessions Judge or a Sessions Judge, (*An Hon. Member:* Special Judge) because there is nothing specified. We will have to argue on the matter, when a Special Judge is appointed under this law what power will he exercise? Will he become a Sessions Judge regular or will he act in his capacity as Assistant Sessions Judge. Because all this goes to show whether the sentence awarded by these people is appealable, and if appealable, to whom the appeal lies. It is an important provision.

**Shri Venkataraman (Tanjore):** Will you please look at clause 9?

**Shri Vallatharas:** Then there is another provision—sections 464, 465, 466 and 467—in respect of lunatics. I

do not want to enter into details because it will take the precious time of the House. The Magistrates holding inquiry or trial have got a procedure to be adopted. If a person committed for trial appears unsound, there is a procedure. Here the Special Judge does not operate.

Before I close I want to refer to one other fact. Whether you increase the sentence to three years or to seven years I am not worried. My impression is that it is difficult to end corruption. It would exist as part of the administration.—We are convinced of it. Whether it lessens or increases, the evil is there. I am not much despaired over that matter. But the Government wants to see that cases are disposed of expeditiously—I agree. But will this Bill tend to expedite matters? You are going to appoint special judges for this purpose. A special judge is going to be given only a few cases. Supposing in one of those cases a petition under section 526 is moved in a High Court for transfer to some other court. Till the High Court decides on it the special judge has to keep quiet. If he has got other work to attend to, he will do that; but if he has no other work except cases of corruption then he will have to keep quiet without any work. I have seen special cases going on in Pudukottai in respect of trial of communists. When a point of revision or appeal arose the court simply sat quiet without doing any work and the money spent during that period was simply a waste; and the judge who could have devoted his time for other work was not able to do so. Because the State has got the power to appoint any number of special judges, I suggest that it should be laid down that primarily they will attend to corruption cases and if there is no work of that nature they will attend to other work. I see the work of District Judges and Additional District Judges is swelling day by day—I have seen that in my own District of Trichinopoly where they are not able to cope up with the work. By laying it down as I have suggested, the trial of corruption cases also will come within the ambit of other normal work so that if a special judge is prevented from attending to the corruption cases before him by reason of a petition for revision etc., he can devote his time to other work.

This Bill has been rushed through the various stages and we have done it hastily. The privileges and rights of the accused person are left in great ambiguity and are left to be decided by courts of law which means the spending of a lot of time and money by

the accused person. It also means that when the case is taken up in one court it goes to the second court, and so on. But I think that by application of departmental discipline expedition can be achieved in such cases. I do not know if the accused derives any benefit through the procedure laid down. The accused, if found guilty, should be punished, but he should not be harassed and before he gets out of the dock after acquittal he should not be made to die or be mutilated financially or otherwise. He should be entitled to the protection of the Government till he is declared to be guilty. Under these circumstances, I submit that the Bill is not worthy of acceptance by this House, and after considering all the points raised it should be considered whether this Bill should be accepted or not.

**Mr. Speaker:** I think there has been sufficient debate on this—I will call upon the hon. Minister to reply. The Home Minister.

**Shri Raghavaiah (Ongole):** Mr. Speaker, I would only make two points...

**Mr. Speaker:** Order, order. I have called on the Home Minister.

**Shri Raghavaiah:** I think it is unjust to call upon the Minister to answer now...

**Mr. Speaker:** Order, order. I request the hon. Member to resume his seat.

**Shri Raghavaiah:** I am going to raise two new points, Sir.

**Mr. Speaker:** I am not going to allow any further discussion on this Bill. It has been discussed threadbare yesterday and today also.

**Shri Raghavaiah:** It is by way of suggestion...

**Mr. Speaker:** Order, order. He may make his suggestions to the hon. Minister by way of a memorandum. The hon. Minister.

**Dr. Katju:** The House has just heard a very meticulous examination of the procedural aspects of the Bill. So far as the Government is concerned this Bill was drafted very carefully and has been examined by competent legal authorities and we think it would serve its purpose, the main purpose being that the trial should be on a fairly high judicial level so that there may be no suggestion that the public officer concerned, high or low, has not been dealt with fairly; secondly, it should be expeditious, and, thirdly,—I

am now saying so—I am rather keen that there should be an appeal to the High Court, again in the interests of the accused because ordinarily when a magistrate tries a case there is an appeal to the sessions court and if the sessions court upholds the conviction there is invariably a revision in the High Court and the High Court sometimes finds great difficulty in going into the facts of the case because of the practice of the High Court in not interfering with facts in revision. Therefore, the Bill has been constructed having all these things in mind: Fair case, expeditious case, fairness to the accused and if he is guilty proper punishment by a fairly high officer.

Now, my hon. friend here has discovered what according to him are many loopholes. I do not know whether those loopholes exist or they do not exist. He possesses very intimate knowledge, it appears, of the various sections of the Criminal Procedure Code. I am not inclined to share his opinion. But this Bill should be passed, and I am sure if there are minor irregularities, of punctuation, this, that or the other, the High Court or the court concerned would take a reasonable view of it. But if there are any serious loopholes discovered afterwards we can set them right. At the present moment I do not think, and I hope the House does not think, that this Bill is unworkable in practice and will not achieve the object that we have in view. That is my submission, Sir, and I commend this Bill at this stage to the approval of the House.

**Shri S. S. More:** May I ask one question of the hon. Minister, Sir? Since a new offence has been created under section 165A is it not necessary that this offence should find a place in the Schedule to the Criminal Procedure Code?

**Mr. Speaker:** Order, order. That refers to the procedural part of the thing.

**Dr. Katju:** It cannot be done.

**Shri P. T. Chacko:** I would like to know, how a case under section 165A is taken cognizance of by a court, that is how it is brought before a court?

**Dr. Katju:** It is sent up by the police.

**Shri P. T. Chacko:** It is not cognizable.

**Dr. Katju:** Of course the Criminal Procedure Code will say so.

**Mr. Speaker:** The question is:

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

The motion was adopted.