

STATE ARMED POLICE FORCES (EXTENSION OF LAWS) BILL

Mr. Speaker: We will now take up the other Bill which we held over yesterday: Further consideration of the motion moved by Dr. Katju yesterday:

“That the Bill to provide for the extension of disciplinary laws in force in any State relating to the armed police force of that State to members of the said force when serving outside that State, be taken into consideration.”

We postponed the consideration to enable the hon. Members to study certain points and we shall now proceed with the general consideration stage.

The Minister of Home Affairs and States (Dr. Katju): May I with your permission say a few words, Sir? They may be of assistance to the House. I have gone through the previous history of the Bill at some length. The House knows that the police force was constituted in India under an Act enacted in 1861. Now there are two leading features of this Act. In the first place, it gives an option to every policeman in the civil police to resign on giving two months' notice. Secondly, it provides punishment for various disciplinary offences. It is a light punishment, say, three months or some such thing. Then there was an Act passed in 1888 to provide for contingencies when the Police Force maintained by one province was sent to another neighbouring province to assist it, and there was a section inserted there saying that when the Police Force of a province goes to another province, it shall have the powers and functions and be subject to the discipline and liabilities of the Police Force in the province which it visits. This was the position up to 1888.

Thereafter, from 1892 Armed Constabularies were constituted in the various provinces, now States. In every province where these Armed Constabularies were constituted, a special law was invariably passed and stringent provisions were introduced for providing severer punishment for disciplinary offences. For instance, if a guard slept, there was no question of merely reprimanding him; he could be sentenced to imprisonment. Supposing he assaulted his officer, he might be sentenced to seven years' imprisonment, that is to say, something on the model of the Army. If he deserted, he could be caught. Further, in some States the right of resignation was taken away. When a man enrolls in the Armed Constabulary, he has to sign an undertaking that he will not

resign without permission. That is the general law.

When these Armed Constabularies were taken to other provinces, the question arose as to whether they were to be subject to the discipline and liabilities of the Act prevailing in the province they were visiting, or whether they were to be subject to the Act in their own province. This problem arose first in 1848 when the present Delhi State sought the assistance of the U.P. Armed Constabulary. They had to consider whether, when the U.P. Armed Constabulary visited Delhi, the U.P. Act ceased to apply to it, because the U.P. Act had only a limited jurisdiction territorially. If that was the interpretation, the result might have been that a member of the U.P. Armed Constabulary while in Delhi may have resigned or may not have been open to that severe punishment to which he would have been open had he been in Ghaziabad or Bulandshahr. Therefore, the U.P. Government made a representation that they would like their Armed Constabulary to remain subject to those liabilities and those rules of discipline to which they would be liable in U.P. itself. Thereupon, this was acceded to and an Act was passed (Act IV of 1949) by the Constituent Assembly (Legislative). It provided for the specific case of the U.P. Armed Constabulary and said that while in Delhi they would continue to be subject to the rules and regulations in regard to all matters as if they were in U.P. itself. After that Act was passed, other States made similar requests and this question was considered in its broader aspect. Every State was consulted and every State was willing to co-operate with the neighbouring States in catching and pursuing dacoits, in stopping smuggling, in dealing with emergencies etc. provided that when their Armed Constabularies visited another province the parent Act of their own State continued to apply to them.

There were two questions. Firstly the powers and functions of these officers and men of the Armed Constabulary and their liability in respect of discipline and liabilities: in regard to this question, we came to the conclusion that so far as the powers and functions were concerned, they would exercise only those powers and functions which were enjoyed by the Police Force in the State which they were visiting, but so far as discipline and liabilities were concerned they would continue to be liable to their own Act. The result would be like this. Supposing the Madhya Pradesh Armed Constabulary visits Hyderabad or Bengal, then so far as their powers and functions are concerned, they would act in accordance with the

Hyderabad or Bengal Act, but so far as punishment for disciplinary offences and all other liabilities are concerned, they would continue to be liable to their own Act. That is the purpose which is carried into effect by this Bill. The House would see that it is specifically laid down here that the police officer of a State while serving in any part of any other State while discharging the functions of a police officer in that other State shall continue to be subject to the same laws in respect of discipline and liabilities as would have been applicable to him if he had been discharging those functions within the States to which the said Force belongs.

Some doubt was expressed yesterday as to what would be their powers and functions. On that point, so far as this Bill is concerned, it leaves the position unchanged, I mean the position as defined in the Police Act of 1888. There it is stated that when a Police Force of one province visits another province, the powers and functions would be exercised in accordance with the laws prevailing in the province which it is visiting, but so far as discipline and liabilities are concerned, they would be liable to their own Act. As I said, there are two main things: the right of resignation and the extent of punishment. The punishment provided for in the Armed Constabulary Acts in practically every State is severe because it must, of necessity, be severe, and as far as the liability is concerned, it continues unimpaired. I hope that this explanation would remove all apprehensions expressed yesterday, or any other apprehensions which might be felt by hon. Members today. I request that this Bill may be taken into consideration and passed.

Pandit Thakur Das Bhargava (Gurgaon): When a policeman belonging to the Armed Constabulary of a particular province is guilty of some indiscipline, then according to this Bill he would be liable under the Act of the province from which he came. Now, who will be the persons who will try him for indiscipline.

Dr. Katju: By those in the place where the offence is committed, viz. the State he is visiting. That court would have jurisdiction to try him.

Mr. Speaker: After postponing the consideration of this Bill for the purpose of going into the legal aspects and the difficulties which had been raised, I myself looked into and studied the various Acts which the hon. the Home Minister referred to, like the Eastern Frontier Rifles Act, the Bengal Military Rifles Act and so on. Of course, I

need not discuss the various points. They have been fully explained by the hon. the Home Minister. The short conclusion to which I came was that, the various Acts referred to in this Bill and the Police Act are complementary to one another. The question of discipline which had been left vague has been cleared up by this Bill. It does not do anything further. That is the conclusion to which I came after examining all the provisions.

Shri S. S. More (Sholapur): Different State enactments have been included in the Schedule. Can we go into their merits?

Mr. Speaker: He has misunderstood the position. We are not going into their merits. Let him read the Bill carefully and refer to those provisions.

Shri S. S. More: I am subject to correction.

Mr. Speaker: So am I. The hon. Member will see that the various Acts referred to in the Schedule are not touched at all in any manner by any provisions of this Bill.

Shri S. S. More: I believe that as far as discipline and liabilities are concerned the operation of the special enactments have come automatically to be extended to the area outside the State in which the police officer is serving.

Mr. Speaker: The hon. Member is starting on a different assumption. If he looks into the scheme of the whole thing, he will find, as the hon. the Home Minister just now explained, that these various enactments were passed for the purpose of constituting certain special forces, apart from the general police force.

Shri S. S. More rose—

Mr. Speaker: Let him hear me first. If we go on exchanging views sentence by sentence, there will be no end to it. Now, for example, the Bengal Military Police Act was passed for certain purposes. It constituted a force. The Eastern Frontier Rifles Act also constituted a force. Now the members recruited in that province under that particular Act had certain obligations of their own.

Pandit K. C. Sharma (Meerut Distt.—South) rose—

Mr. Speaker: Let the hon. Member hear me first. Perhaps, he is anticipating me.

The Minister of State for Finance (Shri Tyagi): He is a lawyer.

Mr. Speaker: I do not claim to be a criminal lawyer: I never practised in criminal courts. But that is a different matter.

Hon. Members will note that the Schedule does not refer to the Madras Police Act, for example; it does not refer to the Police Acts of each State. It refers only to certain specific Acts constituting a special police force, apart from the general police.

Now, for reasons explained by the hon. the Home Minister, these special forces were recruited or formed under certain constitutions of their own, providing for special rules of discipline, punishment, and so on. The provisions of the Police Act of 1881—section 3, I believe—vest all police officers, from whichever province they came, with the powers and duties under the Police Act of that State to which they were drafted. That Act was enacted at a time when no special constabulary or special police were formed under the States Acts with different conditions. As under the Police Act of 1881 they are to function as members of the police of the State to which they are drafted it becomes necessary, in view of the conditions of special recruitment, to see that their discipline, so far as the parent State is concerned is maintained intact in the parent State, or even outside that. The provision made in this Bill is complementary to the provisions of those special Acts, or if you so like, to the Police Act of 1881. That is what the hon. the Home Minister has explained and I myself do not see any difficulty, so far as the legal aspect is concerned. We are not making any amendments at all in the States Acts mentioned in the Schedule.

Shri S. S. More: We are extending their scope.

Mr. Speaker: We are not extending their scope. The Police Act becomes restrictive, when they leave their province. This Bill seeks to make the law of the parent state in regard to discipline applicable to a police officer drafted to another State.

Pandit K. C. Sharma: May I know by what law the jurisdiction of one State law is extended to another State, where the police officer is working?

Mr. Speaker: The Centre has got the power of legislation.

Dr. Katju: Item 80 of the Union List in the Constitution expressly provides for the enactment of such laws.

Pandit K. C. Sharma: rose—

Mr. Speaker: We have got the power to legislate, rightly or wrongly.

Shri S. S. More: Item 80 of the Union List refers to extension of powers and jurisdiction of members of police force. It refers to powers and jurisdiction, not to discipline and liability.

Mr. Speaker: Let me rule that this Bill is quite in order. I find it difficult to convince even after repeated arguments, some hon. Members—not because they do not wish to be convinced, but perhaps, I am not able to express myself in such a manner as to convince them.

Shri K. K. Basu (Diamond Harbour): Since you have given your ruling, I would like to seek a clarification. Suppose a police officer of West Bengal is posted to Delhi, where he commits certain offences. Under the present Act he will be governed by the law obtaining in the province where he commits the offence. Is it not incongruous that he should be governed by the law of the province where he is recruited?

Mr. Speaker: There seems to be some confusion of ideas in this. If any man, whether he belongs to the police force or not, commits an offence, not with reference to the conditions of his recruitment as a policeman, he is certainly liable to be tried and punished according to the rules or laws prevalent in the particular state where the offence is committed. The present Bill has nothing to do with that. It is only concerned with matters of discipline.

Supposing, as he himself said, the U. P. Policeman comes here and by the conditions of the constitution of the Force he is liable to be punished for 7 years' imprisonment for desertion. According to the law applicable in Delhi the punishment is only for three months. What this Bill says is that as he is coming from the United Provinces and is a member of that police force and continues to be a member of that police force, though his services are lent to the Delhi State, he shall be in matters of discipline, governed by the Act under which he had been recruited. That means, if he deserts in Delhi he will be liable to a punishment of seven years.

At present under the Police Act of 1881 what happens is that he becomes immediately liable to section 3 of that Act which applies to him the Delhi Act. All that is sought to be done, is that, in spite of whatever clause 3 of the Police Act may say, he continues to be under the jurisdiction, so far as discipline is concerned, of his parent state. It is something like the rule of Hindu Law. The personal law of a

Hindu follows him wherever he goes. Whether he is in Bengal or any other province, the law of *mitakshara* will follow a man from the South or Bombay. He will not be governed by *diabhaga*.

Shri S. S. More: Will the law of bigamy be applied here?

Mr. Speaker: Order, order. We are not concerned with that. I was merely quoting an analogy.

We are not, in any way, interfering with the legislation of the States, but merely trying to restrict the operation of section 3 of the Police Act of 1881. That is why it is said: "Notwithstanding anything in Section 3, etc."

Shri V. P. Nayar (Chirayinkil): In view of what you have explained I have some doubts. Suppose a member of the armed police force commits a breach of discipline in a province and before he is punished for that he is transferred from the original province to the province where he showed breach of discipline. What law will prevail in such a case.

Mr. Speaker: The same law that is applicable on the date on which the breach was committed, though he may be tried later. The trial will be for what he committed at that particular moment. If he was outside, still, by the present legislation he will be governed by the law under which he was recruited.

Shri Punnoose (Alleppey): The U.P. police is supposed to be in Delhi. Suppose one evening a batch of them goes out and beats the people. My fear is a concrete one. To whom should the people go? Who will take disciplinary action against them. Will it be said that they are under the U. P. regulations and that the enquiry should be done by those authorities? That is my fear.

Mr. Speaker: It is not the function of the Chair to explain all these doubts. But the reply to that is very simple. If the U. P. police act here in pursuance of the orders of the Delhi police chief, then they will not be punished for indiscipline at all. If they refuse to obey those orders they will be liable to punishment in Delhi, but according to the provisions of the U.P. Act, if they, of their own accord, sally forth and beat people, it will not be their act as policemen but simply as people who have broken the law, assaulting and injuring people and all that. That would be the position.

Shri Velayudhan (Quilon cum Mavelikkara—Reserved—Sch. Castes): That is what happens under cover of law.

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Mr. Speaker: We are at present concerned here with the making of the laws. The question is:

"That the Bill to provide for the extension of disciplinary laws in force in any State relating to the armed police force of that State to members of the said force when serving outside that State, be taken into consideration."

The motion was adopted.

Mr. Speaker: We will now take the Bill clause by clause.

Clause 2 was added to the Bill.

Clause 3—(Extension of disciplinary laws etc.)

Shri K. K. Basu: I beg to move:

In page 1, line 12, omit "whether independently or by".

We had some discussion yesterday about the fear in our minds in regard to the working of this particular Act. The general fear among the common people is that often these police forces, or rather the armed constabulary, are brought in from the adjoining provinces to quell civil disturbances or any movement of resistance by the common people, because they find that the local police who have something at least with the people of the province may not be found suitable to stop this trouble. That is why our idea is that if there is a shortage of police in a particular province, the armed constabulary that is brought from the other parts of the country should fit in with the local police organisation and work along with them and not independently. Because if they are allowed to work independently there is a likelihood of their taking a very apathetic or rather oppressive attitude towards the people of the area. We have seen during the British days, especially in Calcutta, many a time when there were certain disturbances in the city, Gurkhas and others were brought in to shot down the people. They found that the local policemen were not suitable for this task and the Gurkha and other police always took an anti-people and apathetic attitude because they had no link with the people of the area.

[**MR. DEPUTY-SPEAKER in the Chair**]

Similar instances have occurred in many parts of the country, and the tribal people were always being kept as a backward class so as to supply men to the armed constabulary and the army of our country. This fear is still in our mind. Though the hon. the Home Minister has said often that it is necessary to fight down inter-

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district criminals or black-marketers and other anti-social beings, we have seen many a time the force is used for the purposes of fighting with and shooting down the common people because of their resistance movement. With this end in view I have suggested this amendment so that even if the police forces are brought in from other areas they should be made to work in conjunction with, and not as an independent unit of, the local police organisation. I hope the hon. Minister will accept it.

Dr. Katju: Mr. Deputy-Speaker, may I suggest that the acceptance of this amendment might create great practical difficulties? In the first place, the apprehension expressed by my hon. friend really is more or less imaginary. Because, the moment the police of one State enters the territory of another State, then automatically that police becomes subject to the operation of the Police Act in force in the neighbouring State where they enter, by virtue of Police Act of 1861 read with Police Act of 1888—automatically, whether they are acting independently or subject to the administrative control of the Inspector-General of Police of the neighbouring State. This acting independently may occur casually. Or, suppose there are some dacoits and they have to chase those dacoits, or there are no joint anti-dacoity staffs. In this way they might be acting independently. Or they might even be authorised by the Inspector-General of Police of the neighbouring State to which they have gone: "You better go and do this job". Therefore there should be no ground for apprehension that if they are acting independently then they become a sort of sovereign to themselves and not subject to any police laws and not subject to observe the laws and that they may act oppressively or tyrannically towards the people. They are subject to all the liabilities. As the hon. the Speaker was pleased to mention, the object of this Bill is simply this that by going into another State they should not be able to escape the obligations which they owe under their own Act.

For instance, let me tell you, suppose, under the Madhya Pradesh Act, there is a section which says that if any member of the Madhya Pradesh armed constabulary assaults a sentry, he is liable to imprisonment for seven years. If the Madhya Pradesh armed constabulary goes to Bengal and there a constable of the Madhya Pradesh armed constabulary assaults his own sentry, it is very likely that in the

Bengal Act, the punishment is only 3 months, whereas under his own Act, he would have got 7 years. Therefore I submit that these words may be allowed to stand. It will cause no harm. They are really necessary for the operation of that section.

पंडित मुनीश्वर दत्त उपाध्याय (जिला प्रतापगढ़-पूर्व) उपाध्यक्ष महोदय, जो मेरा द्वारा अमेन्डमेंट है उसको पेश करना चाहते हैं, जहां तक पहले का तालूका है मैं उसको नहीं पेश करना चाहता।

Mr. Deputy-Speaker: Now, let me dispose of this amendment. Is that an amendment to this amendment?

पंडित मुनीश्वर दत्त उपाध्याय : नहीं।

Mr. Deputy-Speaker: Is the hon. Member keen upon my putting this amendment to the House?

Shri K. K. Basu: In view of the opinion expressed by the hon. Home Minister, we take it that the police force will not be used in a very oppressive way.

Mr. Deputy-Speaker: So, I do not put it to the House. Mr. Raghubar Dayal Misra not in his seat; Pandit Munishwar Datt Upadhyay not in his seat.

Pandit Thakur Das Bhargava: May I say a word, Sir? When we were considering the Bill, I asked a question from the hon. Home Minister and he was pleased to reply that if a policeman of one province, who is governed by his own Act, commits an indiscipline in a particular place where he has been drafted, in that case, the officers and judges of that place will determine his guilt.

Dr. Katju: Yes.

Pandit Thakur Das Bhargava: That is the reply that I got. But, the clause reads thus:

"... every member of the said detachment, while discharging the functions of a police officer in that other State, shall continue to be subject to the same laws in respect of discipline and liabilities as would have been applicable to him, if he had been discharging those functions within the State to which the said force belongs."

These words "subject to the same laws in respect of discipline and liabilities" have two aspects.

So far as the question of punishment is concerned, it may be that in one place it is three months and in another place it is 7 years or something like that. But, so far as the persons who have to go into that particular act of indiscipline and the judge is concerned, they must be different. For instance, under these laws, the Bengal Military Police Act, etc., so far as the particular authority which will try that case of indiscipline is concerned, these Acts must be self-sufficient. The question will arise, which will be authority which will try and decide these cases of indiscipline. The words here are: they shall be subject to the same laws in respect of discipline and liabilities. I can understand it so far as the punishment is concerned. The punishment will be that which is provided by these local Acts. So far as the personnel of the investigating authority and punishing authority are concerned, I think the position is not clear. So I put a question. The reply so far as it goes may be right. So far as these words of the statute are concerned, they do not make it clear. It may be that the Act requires that the Superintendent of Police or the Inspector of Police should investigate into the case of indiscipline and punish, whereas the law of the land, that is the Police Act III of 1888 or V of 1861 may require that the local police will have jurisdiction. As to jurisdiction I am not quite clear. I hope to know from the hon. Home Minister, on what basis it is said that the police of the place where the offence is committed will be in charge of and investigate into any acts of indiscipline and impose punishment and not those persons authorised by the local Acts.

Shri S. S. More: May I put in a word, Sir, on the same point? These are the practical apprehensions that prevailed in my mind and made me rise to a point of order. According to the present Bill, the disciplinary jurisdiction of a particular enactment will be extended to some area outside the State. The hon. Minister for Home Affairs has said that suppose a contingent which is subject to a particular enactment of the Bombay State is taken to Bengal, and there one of the men flouts the particular enactment. According to the disciplinary provisions of his own enactment, he is supposed to have committed a very serious offence. The place of commission of the offence is Bengal. What is the place where he will be tried? According to the present Bill, he shall be supposed to be tried in the State in which he is acting at that particular time. Will the Bengal Magistrate have the power to go into the case? Will he have the necessary jurisdiction? My hon. friend is not only taking

particular forces to some State outside the particular State to which they belong, but he is at the same time investing magistrates and judges of that particular place with jurisdiction, which, according to their own law, they do not possess. That is a sort of contradiction. As a matter of fact...

Mr. Deputy-Speaker: Is there any provision in any of these Acts or in the Schedule making any breach of discipline a criminal offence?

Shri S. S. More: As a matter of fact, we are being asked to include certain enactments in this legislation without giving us any opportunity to go into those State enactments. We are told that we need not go into them. I am forced to speak on assumptions. Suppose in these Special Acts, certain offences have been created and those offences, coming under the name of indiscipline, are committed by him, in a place outside the State to which he belongs, will the magistrates and judges outside his parent state have the necessary jurisdiction and the power to try these offences?

Mr. Deputy-Speaker: The difficulty arises even in the same State, because, they may belong to a particular district and they may be asked to go to another district.

Shri Velayudhan: It is a State, not a district.

Shri S. S. More: I assume that a particular State enactment is made applicable to all the districts in the State. That will not hold good here. This Bill will be extending the disciplinary jurisdiction to another State. These acts are in the nature of offences. The place of the commission of the offence will be a place outside the State to which he belongs. The question is whether the magistrates of that particular place will have jurisdiction to go into these matters. Can you assume that he will automatically have the jurisdiction by the enactment of this particular legislation? Unless the matter is clarified...

Mr. Deputy-Speaker: Is there any provision for prosecution? Do these acts become criminal offences according to the Acts in the schedule?

Dr. Katju: In the Police Acts, nothing is stated about the place of, or court of trial. That is always determined according to the provisions of the Criminal Procedure Code, which may be in force. The Criminal Procedure Code provides that every offence can be tried in a particular place or a number of places. For instance, as you were pleased to say, a Bengal policeman goes into a neighbouring district of Bihar, and commits what is

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an offence according to his own Police Act in the town of Bihar. Then, under the Criminal Procedure Code, the place and venue of his trial will be Bihar and the Bihar Magistrate will take cognisance of the charge, try him and if he is found guilty, will impose punishment. There is no court martial provided in the Police Act. I am reading from the Madhya Pradesh Act for instance:

"An officer of the special armed constabulary who is tried, and who belongs to a police force or infantry ... shall, on conviction by a court of competent jurisdiction, be punished with ..."

The competent jurisdiction is where he commits the offence, and my hon. friend Mr. More said; "you are investing the Magistrate of a neighbouring State with a certain jurisdiction". That happens every day, as the hon. Speaker said, in civil law. If I am a Gujrati, I am bound by the Hindu law which prevails in Gujrat. Supposing I come here and commit an offence, the Civil Judge here will not take into consideration the Hindu Law which applies to the residents of Delhi. He will make enquiry into the Hindu law which prevails in Gujrat among the Gujratis, and will take that into consideration. It is a very simple matter. The place of trial is determined by the Criminal Procedure Code. The nature of the offence and the punishment prescribed are taken for that.

Pandit Thakur Das Bhargava: When I submitted it, I did not have the question of trial by criminal courts in my consideration. That is quite clear. So far as the place of jurisdiction is concerned, the jurisdiction of the criminal court is determined by the Criminal Procedure Code. So far as the disciplinary action is concerned, which is taken by the Departmental superiors, for example the Superintendent of Police so far as the departmental disciplinary action is concerned—I was asking about it, because according to particular acts it may be that the Superintendent of Police may be invested with powers of going into the matter and punishing an offending policeman. My question is only directed to that.

Mr. Deputy-Speaker: There is no doubt about that.

Dr. Katju: May I respectfully say that my hon. friend is multiplying difficulties. If officers go from one State to another, they are subject to their own officers. They are subject to the general supervisory jurisdiction

of the Inspector-General of Police of the State to which they go and I think their own officer holds that departmental enquiry or the Inspector-General of Police holds it. It presents no difficulty whatsoever. I do not know why we should go into all these matters.

Pandit Thakur Das Bhargava: The Superintendent of Police may not be there.

Dr. Katju: His own Inspector-General of Police from the State from which he comes will have the ultimate jurisdiction.

Pandit Thakur Das Bhargava: Who will be the deciding authority either the Superintendent of Police of the force or the Superintendent of Police of that place?

Dr. Katju: Let us leave some problems alone.

Mr. Deputy-Speaker: The question is:

"That clause 3 stand part of the Bill".

The motion was adopted.

Clause 4.—(Power to add to etc.)

Shri K. K. Basu: Clause 4 of the Bill states...

Mr. Deputy-Speaker: Let him move the amendment. The practice is first to move the amendment, then to speak.

Shri K. K. Basu: I beg to move:

In page 1, after line 22, insert.

"Provided that in so amending the schedule, the powers of armed Police force shall not exceed what is laid down in this Act."

The idea is the schedule which forms part of this Act covers particular enactments, and under those particular enactments, certain powers are already in existence. And under this Bill which is before us, the Central Government takes power to amend the schedule and add to it. The Bengal Military Police Force, for example, has been constituted under a certain act and they have certain powers. The armed constabulary of any particular state is constituted under a particular enactment and have certain powers. Suppose the Central Government in respect of the Bengal Military Police organises...

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Mr. Deputy-Speaker: There is no power given here to amend a particular Act.

Shri K. K. Basu: Yes, Sir.

Mr. Deputy-Speaker: No, the only power that is now given under this Act to the Central Government is to add or subtract from the schedule whole acts which have been framed by the State Government. There is no doubt at all. The hon. Member, I feel, thinks that under this Bill the Central Government is clothed with power not only to add or omit from the schedule, but also to interfere or amend any particular enactment of a State Legislature. That is not there. Either wholly it is added, or wholly subtracted.

Pandit K. C. Sharma: It does not give any such power at all, Sir.

Shri K. K. Basu: Supposing a greater power is given under a particular enactment, that enactment may be added as part of the schedule. We want a restriction to that.

Mr. Deputy-Speaker: There is no special power given except that a Police force from one State, when it is requisitioned in another State for operational purposes, is governed by its own laws so far as discipline and obligations are concerned. Therefore, there is nothing to add to or subtract from.

Shri K. K. Basu: The Bengal State enacts a legislation giving greater power to the armed constabulary, and the Central Government may add that particular enacting clause.

Mr. Deputy-Speaker: No. The whole schedule. Please read the section:

"The Central Government may by notification in the official gazette, add to, or omit from the schedule any enactment."

Shri N. C. Chatterjee (Hooghly): They cannot add in the schedule part of any enactment, they can add only the whole of an enactment.

Mr. Deputy-Speaker: Either the enactment as a whole is added or taken away from the schedule. A part of the enactment cannot be added or subtracted.

Shri K. K. Basu: My apprehension is this. Suppose there is another legislation by a particular State forming an armed police force with different powers other than those under this particular enactment in the schedule...

Mr. Deputy-Speaker: This is not an armed police force enactment at all. The hon. Member, I am afraid, has not understood the scope of the Bill. Under this Bill power is not given to Parliament or to any State to bring into existence any armed police force, and

then clothe them with broader powers by statute by any legislature. Where any State legislature creates an armed police force and passes a certain law, the law is already there. For purposes of uniformity, or at any rate, to avoid any difficulty when they are requisitioned in another state, they may be included in this schedule. That is all that is there.

Shri K. K. Basu: I am afraid I could not explain my point. My apprehension is this. A particular State enacts a new legislation for organising an armed police force with greater power than those under the existing laws.

Mr. Deputy-Speaker: Where is the existing law?

Shri K. K. Basu: The schedule enumerates certain existing laws under which the armed police exists in different States in India. Suppose, a particular State, say Bombay, enacts a new legislation under which the armed police force is organised with greater powers. By adding a particular legislation to this schedule, we may have armed police with greater power than those under the present schedule.

Mr. Deputy-Speaker: Automatically, that will be in supersession of the existing item.

Pandit Thakur Das Bhargava: The law is created by the parent state. This Bill deals only with the discipline of the force.

Mr. Deputy-Speaker: The hon. Member feels this difficulty. Now, we will take, for instance, the Bengal Military Police Act of 1852. We will assume it is amended, and the Bengal Military Police are clothed with so much greater power. Is it his difficulty that notwithstanding the fact that it is amended, the original Act alone will stand here? The schedule will contain the original Act with all its amendments from time to time. When the particular original Military Police Act is amended, the Act mentioned in the schedule will mean the amended Act. It is not as if the Centre or Parliament takes the power to prevent an amendment by the State Legislature, and notwithstanding an amendment by a State Legislature, the old Act alone will continue. That means that when once an Act is put in the schedule, from time to time it will mean the Act as amended by the particular State Legislature, because that legislature alone has got the right to amend. That will take the place of it.

Shri K. K. Basu: Apart from that I have another apprehension. Supposing a new legislation comes. That legislation may be added to the schedule under Clause 4, and by that

[Shri K. K. Basu]

particular new legislation, the armed forces may have much greater powers than those under the present law.

Pandit Thakur Das Bhargava: We are not concerned with power at all.

Mr. Deputy-Speaker: If a State Legislature passes any Police Act or creates a Police force and confers upon it certain powers, we have to recognise it. All that this Act does is to put it in the schedule so that whenever a police force goes to another territory, they may carry their own disciplinary laws with them. Nothing more than that. I am not able to follow further any more of the hon. Member's doubts or difficulties.

Shri K. K. Basu: My point is this. Those particular legislations should not be added to the schedule. That is what I want to say.

Pandit Thakur Das Bhargava: Why not?

Shri S. S. More: I very strongly oppose the retention of this particular clause in an enactment of this nature. The schedule is also part of the enactment, and it is the privilege and right of this House to add to the enactments or delete certain provisions from the enactments. According to this clause, the executive Government is taking certain powers to amend this particular enactment. Now, the fears which are expressed by the hon. Member who is sitting by my side are perfectly well grounded. Supposing for instance, the state of Bombay passes some enactment with severer rights and severer provisions for discipline or liabilities, then, if this Clause is passed, the executive government merely by issuing a notification can omit from the schedule the previous Act of the Bombay State and substitute in its place the new enactment. If we do not pass this clause, and do not give thereby the power to the Central Government to omit or to add from the schedule, then this House will get the right and privilege to consider the question of an amendment to the schedule. In certain cases when we grant rule making powers to the State or the Central Government, we do delegate some authority to legislate in certain restricted spheres. But if we retain this clause and give it a legal sanction, then we shall be endowing the executive government with a very important right, namely that of amending the provision of an enactment which has been passed by this House. This sort of delegation of powers is very sinister and undesirable, and I am strongly opposed to such a proposal.

Mr. Deputy-Speaker: That is the normal feature.

Shri Gadgil (Poona Central): What are the powers laid down in this Act?

Shri S. S. More: For the satisfaction of my hon. friend from Maharashtra, I may say that in this Schedule, under Clause 4 of the Bill, the Central Government may by notification in the official Gazette add to or omit from the Schedule any enactment and on the publication of such a notification the Schedule shall be deemed to be amended accordingly. Item 3 of the Schedule relates to the Bombay State Reserve Police Force Act.

The Minister of Law and Minority Affairs (Shri Biswas): The hon. Member may refer to Clause 2 which will show why the schedule is necessary.

Shri S. S. More: I am referring to Clause 4 according to which the Central Government is seeking powers to omit from or add to the Schedule something. Thereby they will be receiving a power to modify the schedule, which is a part of the enactment passed by the House. My submission is that this House alone can modify or amend a part of its own legislation.

Shri Gadgil: May I say a few words, Sir? The inclusion or exclusion of any particular Act in the schedule does not confer any new powers or reduce any power which is already inherent in the particular Act?

Pandit K. C. Sharma: May I say with all respect, that there is no mention whatsoever in this Bill, of the powers of armed police forces. So the question of subtraction or addition of the powers of the armed police forces does not arise at all.

Pandit Thakur Das Bhargava: The hon. Member who is very jealous of the rights of this House, is raising this objection without any substance in it. In a matter of this nature by the issue of a notification, the disciplinary laws and the liabilities of the police forces concerned are only touched. No question of any powers arises. It is not as if some new powers are going to be given, in which case, my hon. friend may have something to say,—that a State may arm its police force with certain powers, and if those forces serve in another State, those powers will be carried over to the other State. I can understand the hon. Member's point in that case. We are considering here only liabilities and disciplinary laws and not any powers. No State would give powers to cut its nose and

[Pandit Thakur Das Bhargava]

to spite another State's face even if giving of such powers was effective which it is not.

Another thing, Sir. So far as this House is concerned, there are many Acts of this nature where only by a mere notification the Government gets the powers to add to or omit from the schedule, something formal. This is a very ordinary matter. Even so far as the general rules under an Act are concerned, it is the Government which enacts these rules, without any reference to this House. This is a matter of such minor moment that I do not think this sort of objection can be taken with any substance in it.

Shri N. C. Chatterjee: Sir, there is some confusion.

Dr. Katju: I entirely agree.

Shri N. C. Chatterjee: There is some confusion with regard to the scope and effect of Clause 4. No power is being taken, so far as I can follow, by the Government to modify the enactments mentioned in the schedule. The clause refers only to the power to omit from or add to the schedule. They are not taking any powers to amend or modify the acts specified there. The Schedule has to be read along with Clause 2 which says:

“‘Armed Police Force’ means any police force constituted by any of the enactments specified in the schedule for the time being in force.”

Now, take for instance the 1st item in the Schedule, the Bengal Military Police Act, 1892. If you omit that from the Schedule, then the Bengal Military Police operating under that Act cannot be requisitioned in any other province. If that Act is repealed and another Act is substituted in its place, and if that Act is put in the schedule, then the Bengal Military Police functioning under the new Act will be operating in the area in which it serves, and will be subject to the disciplinary powers under that Act. There is absolutely nothing in the Clause to show that really there is any intention to confer more powers on the armed police forces by virtue of this enactment of this schedule. The Schedule is, I think, innocuous, and I hope the hon. Minister will make it clear that no power is being taken to give any delegation to the executive of powers to expand the ambit of the authority given to the armed forces.

Dr. Katju: The object of this Bill is very simple. At present, there are only eight States in India, which have an armed constabulary. It may be that in the future, another State, or

two or more States may think it fit to have their own armed constabularies. When such a contingency arises, they will pass their own Acts, regulating the conduct, recruitment etc. of their constabularies. These constabularies may have to go elsewhere and work in neighbouring states for helping them. The power is taken in Clause 4 to add to the schedule a new act which may be passed by which some other states may constitute their own armed constabularies. There is no question, as my hon. friend Mr. Chatterjee has pointed out—of any power being given or being added to the Government. The Schedule is only intended to indicate the States where at present armed constabularies exist today. That is all. Also, the main clause in the Bill does not deal with powers, it deals only with liabilities and matters of discipline. I respectfully suggest that there is really nothing objectionable in this. The amendment is based on some misapprehension, and should therefore be withdrawn.

Mr. Deputy-Speaker: Is the hon. Member withdrawing the amendment? I do not think it is necessary to put it before the House for vote.

Shri K. K. Basu: I do not agree.

Mr. Deputy-Speaker: I merely wanted to know whether the hon. Member is withdrawing his amendment. If he is not, I am ruling it out of order.

The amendment reads:

“Provided that in so amending the schedule, the powers of armed police forces shall not exceed what is laid down in this Act.”

There is no power laid down in this Act, so far as the powers of any armed police forces are concerned, or any particular enactment relating to such powers is concerned. The hon. Member is raising a ghost and trying to suppress it. The amendment is out of order (*Interruption*). No hon. Member can question the ruling of the Chair.

The question is:

‘That Clause 4 stand part of the Bill.’

The motion was adopted.

Clause 4 was added to the Bill.

Clause 5 was added to the Bill.

The Schedule was added to the Bill.

Clause 1 was added to the Bill.

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

Dr. Katju: I beg to move:

“That the Bill be passed.”

Mr. Deputy-Speaker: Motion moved:

"That the Bill be passed."

Shri R. K. Chaudhury (Gauhati): I very much like to come to the front, but I should not behave like a deserter...

Mr. Deputy-Speaker: The hon. Member will bear in mind the scope of the third reading discussion of the Bill.

Shri R. K. Chaudhury: ...to sit here and get shelter here and at the time when you allow me to speak to leave them behind and go there. That is what I do not like. I shall say in a few words whatever I have got to say on this Bill. I do not, however, Sir, know whether I have correctly followed the proceedings which had been taking place at some distance from the place where I am sitting. If I have not understood, many of my friends here have also not understood. But they are too shy to express this and I on their behalf mention this fact, with an earnest appeal to those fortunate Members of the House who are near you, Sir, so that in future they may speak in a little louder and more distinct voice.

I congratulate the hon. Minister for the easy success he has had over this Bill. In fact he has had a series of successes of which any Minister could be proud. He may exclaim with Caesar, Julius Caesar, I do not remember who said it—"I come to the House, I read out the Bill and I get it passed".

Mr. Deputy-Speaker: The hon. Member has not been attentive. This Bill has been standing over since the other day. It is not being rushed through.

Shri R. K. Chaudhury: Other Bills also, Sir.

Mr. Deputy-Speaker: Then the hon. Member is irrelevant.

Shri R. K. Chaudhury: I stand corrected, Sir. My speech will be read subject to what you have said.

Mr. Deputy-Speaker: The hon. Member will now come to the point.

Shri R. K. Chaudhury: I come to the point. I was just saying, Sir,—that is my strongest point—that the hon. Minister has been attaining all this success to the greatest chagrin of certain Members of the House who have gradually established their claim to the opposition and to the greatest joy of all of us. His success is a matter of joy to us. All the same—I could not follow one thing. The hon. Minister has said that if a certain act of indiscipline is committed by a member of the Bengal Constabulary in

Madhya Pradesh and the same act of indiscipline or offence is committed by a member of the Madhya Pradesh Police, one may be sentenced only to three months' imprisonment and the other may be sentenced to seven years' imprisonment. I submit if such an anomaly actually exists, our duty first ought to be to remove that anomaly otherwise, it will go against the interest of the Constitution itself. It will go against the discipline which we all want maintained. Supposing in a town in Madhya Pradesh, Bengal Police was requisitioned and they were actually functioning there. For an offence for which the Bengal police will be sentenced to three months' imprisonment, the Madhya Pradesh police will be sentenced to a much higher punishment. The Bengal police will not hesitate to break the discipline, because they know that the sentence of punishment inflicted on them will be comparatively very small. This will encourage indiscipline amongst the Madhya Pradesh Police. I think I am correct in saying what I have said, that if there is such an anomaly, before we bring in this piece of legislation, we should do our best to remove that anomaly whereby working together one set of police may be subject to a light punishment for the same act of indiscipline and another set of police to an enhanced punishment. That would bring indiscipline amongst the whole police force. If I am correct in my observations, I hope the hon. Minister will remove that anomaly.

The other point to which I desire to draw the attention of the hon. Minister as well as this House is, how is this schedule going to be modified? Perhaps I have not been able to follow it clearly. Is this schedule going to be modified by the Minister in his executive capacity, whether the schedule will be added to by the Minister in his executive capacity under section 4 by a mere notification in the Gazette enabling him to remove a certain State Act from the schedule or enabling him to put in a schedule of another State which may have been applied, which may have come into force afterwards or which may have been deliberately omitted in this Bill? That is what I want to know. I would submit that in placing all these Acts which have been placed in the schedule, it requires the attention, concurrence and consent of this House. I submit no further statute should be allowed to be added to this schedule or be omitted from this schedule without the consent of this House, without an amendment of the Act itself and without bringing the matter to the notice of this House. That is my point.

Another point which I have not been able to follow is that although we have got what is known as the Armed Constabulary in Assam, there is, however, no such special Act for them. It is regulated by the Act of 1888. Has this been purposely omitted, behind by back or without the knowledge of the Members of this House? I want to be enlightened on this point: why there is no State Constabulary Act in Assam or whether the Bengal Act is followed there or whether that omission has been purposely made in this Bill or there is some other reason for doing so. With these words I support the motion.

श्री नन्द लाल शर्मा (सीकर) :

उपाध्यक्ष महोदय, मेरा निवेदन है कि मैं इस पर कोई लम्बा चौड़ा भाषण देने वाला नहीं हूँ। केवल एक आध शंकायें विद्यमान हैं उनको मैं स्पष्ट करना चाहता हूँ। सभी सज्जनों ने जितने भी यहाँ पर हैं अपने अपने भाषण दिये हैं और हमारे माननीय गृह मंत्री महोदय को साथ लेकर, केवल डिसिप्लिन, अनुशासन, शब्द पर ही अपना भाव रखा है। परन्तु इस में अनुशासन की तरह एक उत्तरदायित्व भी विद्यमान है अर्थात् लाइबिलिटी। एक पुलिसमैन के दूसरे प्रान्त में जाने पर कितनी ही प्रकार की लायबिलिटी हो सकती है। उसका दायित्व साधारण सामाजिक क्षेत्र में रहे वह सिविल लाइबिलिटी रहे, डिपार्टमेंटल लाइबिलिटी रहे, यह कई प्रकार की उस की लाइबिलिटी हो सकती है। और इन सब के सम्बन्ध में यह कहा जा रहा है कि उस पर अपने प्रान्त का, अपने प्रदेश का जो कानून है वह लागू होगा। इस सम्बन्ध में एक विचार करने की बात यह है कि यदि उस ने वहाँ के नियमों के अन्तर लाइबिलिटी स्वीकार कर ली अब जो सम्बन्ध दो व्यक्तियों के बीच में है उस के लिए एक व्यक्ति को तो कानून लागू होगा उस प्रदेश का और जो पुलिसमैन दूसरे प्रदेश से चल कर वहाँ कार्य करने गया है उस पर कानून लागू होगा अपने प्रदेश का। ऐसी अवस्था में दो कानूनों में एक के

अधिकार का और दूसरे के उत्तरदायित्व का जो आपस में मत भेद होगा उसका समाधान गृह मंत्री महोदय कर दें यही मेरे मन में शंका है। वैसे तो मैं जानता हूँ कि इस में न कोई अधिकार देने की बात है और न अधिकार लेने की बात है। एतावत इस बिल में कोई विरोध नहीं है। गृह मंत्री महोदय इस बात को स्पष्ट कर दें।

Dr. Katju: Mr. Deputy-Speaker, I have nothing to add. I suggest that the Bill be passed without any further delay.

Mr. Deputy-Speaker: The question is:

"That the Bill be passed."

The motion was adopted.

PREVENTION OF CORRUPTION (SECOND AMENDMENT) BILL

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

"That the Bill further to amend the Prevention of Corruption Act, 1947, be taken into consideration."

Mr. Deputy-Speaker, in my name stood, when we started with this legislative business, five Bills. I thought all of them were of an innocuous description. We have dealt with three, two remain. This is the fourth one and the fifth, I hope, will also have an equally satisfactory passage.

This Prevention of Corruption (Amendment) Bill aims at having some amendments to the parent Prevention of Corruption Act (Act II of 1947). The amendments are three or four in number. I shall tell the House as briefly as I can the nature of these amendments. One amendment which is sought to be introduced in this Bill is this. Under the parent Act power to investigate was given to the Deputy Superintendents of Police. It is a cognizable offence and normally any police officer in charge of a police station can start an investigation, but Bakshi Tek Chand Committee report when going into it thought that it was desirable that the senior police officer should do it, and in 1947 the Legislature had thought it fit that the police officer starting investigation should be of the rank of a Deputy Superintendent. In actual practice it was found that it caused some obstruction in the way of the Special Enforcement Branch