

LOK SABHA

THE DISTURBED AREAS (SPECIAL COURTS) BILL, 1972

(Report of the Joint Committee)

[Presented on the 30th April, 1974]



LOK SABHA SECRETARIAT
NEW DELHI

May, 1974/Vaisakha, 1896 (Saka)

Price: 1.45

Joint /Select Committee Reports Presented
in the Lok Sabha during the year 1974.

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Sl.No.	Title	Date of presentation
XXXXX		
1.	The Untouchability (Offences) Amendment and Miscellaneous Provision Bill, 1972 (Report of the Joint Committee)	22.2.74
2.	The Direct Taxes (Amendment) Bill, 1973 (Report of the Select Committee)	29.4.74
	-do- EVIDENCE	
3.	The Disturbed Areas (Special Courts) Bill, 1972 (Report of the Joint Committee)	30.4.74
4.	The National Library Bill, 1972 (Report of the Joint Committee)	26.7.74
	-do- EVIDENCE	

CONTENTS

	PAGE
COMPOSITION OF THE JOINT COMMITTEE .	(ii)
REPORT OF THE JOINT COMMITTEE	(v)
MINUTES OF DISSENT	(viii)
BILL AS REPORTED BY THE JOINT COMMITTEE .	(ix)
APPENDIX I :	
Motion in Lok Sabha for reference of the Bill to Joint Committee .	6
APPENDIX II :	
Motion in Rajya Sabha	8
APPENDIX III :	
List of Associations, Organisations, etc. from whom memoranda were received by the Joint Committee	9
APPENDIX IV :	
List of Associations who gave evidence before the Joint Committee .	10
APPENDIX V :	
Minutes of sittings of the Joint Committee	11

LOK SABHA SECRETARIAT

Corrigenda to the Report of the Joint
Committee on the Disturbed Areas
(Special Courts) Bill, 1972.

Page (iii), line 4, for "Kotki" read "Kotoki"

Page (v), line 11 from bottom for "Comittee"
read "Committee"

Page (vii), line 11 for "the the case" read "the case"

Page (viii), line 15 for "tribal" read "triable"

Page 20, line 7 for "extention" read "extension"

Page 23, line 4 from bottom for "extensoion"
read "extension"

Page 50, line 8 from bottom for "Panel" read "Penal"

JOINT COMMITTEE ON THE DISTURBED AREAS (SPECIAL
COURTS) BILL, 1972

COMPOSITION OF THE COMMITTEE

*Shri L. D. Kotki—*Chairman*

MEMBERS

Lok Sabha

2. Shri M. C. Daga
3. Shri Madhu Dandavate
4. Shri Tulsidas Dasappa
5. Shri Biren Dutta
6. Shri C. D. Gautam
7. Shri Dinesh Chander Goswami
8. Shrimati Subhadra Joshi
9. Dr. Kailas
10. Shri Purushottam Kokodkar
11. Shri Sat Pal Kapur
12. Shrimati T. Lakshmikanthamma
- †13. Shri Vikram Mahajan
14. Shri Mukhtiar Singh Malik
15. Shri Prasannbhai Mehta
16. Shri G. S. Mishra
17. Shri F. H. Mohsin
18. Shri Priya Ranjan Das Munsi
19. Shri Balakrishna Venkanna Naik
20. Shri Sarjoo Pandey
- %21. Shri K. C. Pant
22. Shri H. M. Patel
23. Shri M. Satyanarayan Rao
24. Shri Ebrahim Sulaiman Sait
25. Shri Nawal Kishore Sharma
26. Shri B. R. Shukla
27. Shri N. Tombi Singh

*Appointed Chairman w.e.f. 27-2-1973 *vice* Shri R. D. Bhandare ceased to be member of Lok Sabha.

†Appointed w.e.f. 5-4-73 *vice* Shri R. D. Bhandare ceased to be member of Lok Sabha.

%Resigned w.e.f. 22-12-1973.

28. Shri C. M. Stephen
29. Shri K. Veeriah
30. Shri R. P. Yadav

Rajya Sabha

31. Shri Todak Basar
32. Shri S. B. Bobdey
33. Shri Nabin Chandra Buragohain
34. Shri Mahendra Mohan Choudhury
35. Shrimati Sita Devi
- **36. Shrimati Jahanara Jaipal Singh
37. Shri Ibrahimbhai Kasambhai Kalanji
38. Shri M. S. Abdul Khader
- @39. Dr. Bhai Mahavir
40. Shri Veerendra Patil
41. Shri Hamid Ali Schamnad
42. Shri Yogendra Sharma
43. Shri Ranbir Singh
44. Shri Sitaram Singh
45. Shri Sikandar Ali Wajid

LEGISLATIVE COUNSEL

Shri R. V. S. Peri-Sastri—*Joint Secretary and Legislative Counsel.*

REPRESENTATIVES OF THE MINISTRY OF HOME AFFAIRS

1. Shri S. Balakrishnan—*Joint Secretary.*
2. Shri B. R. Patel—*Joint Secretary.*
3. Shrimati P. Ramachandran—*Director.*
4. Shri S. D. Srivastava—*Under Secretary.*

SECRETARIAT :

1. Shri P. K. Patnaik—*Joint Secretary.*
2. Shri H. G. Paranjpe—*Deputy Secretary.*

Resigned from the membership of Rajya Sabha w.e.f. 4-5-1973.
**Appointed w.e.f. 29-3-73 vice Shri Bhola Paswan Shastri resigned.
@ Term of membership of Rajya Sabha expired w.e.f. 15-4-1974.

REPORT OF THE JOINT COMMITTEE

1. the Chairman of the Joint Committee to which the Bill* to provide for the speedy trial of certain offences in certain areas and for matters connected therewith, was referred, having been authorised to submit the report on their behalf, present their report with the Bill, as amended by the Committee, annexed thereto.

2. The Bill was introduced in Lok Sabha on the 31st May, 1972. The motion for reference of the Bill to a Joint Committee of the Houses was moved in Lok Sabha by Shri Ram Niwas Mirdha, Minister of State in the Ministry of Home Affairs on the 16th August, 1972 and was adopted (Appendix I).

3. Rajya Sabha concurred in the said motion on the 21st August, 1972 (Appendix II).

4. The message from Rajya Sabha was reported to Lok Sabha on the 23rd August, 1972.

5. The Committee held 20 sittings in all.

6. The first sitting of the Committee was held on the 28th August, 1972 to draw up their programme of work. The Committee decided to invite memoranda from various associations, organisations, individuals, etc., interested in the subject matter of the Bill and also decided to issue a Press Communique in this behalf fixing 25th September, 1972 as the last date for receipt of memoranda. The Chairman was authorised to decide, after examining the memoranda received from various associations, organisations, etc., as to which of them should be called upon to give oral evidence before the Committee.

7. 4 memoranda on the Bill were received by the Committee from various associations, organisations, etc. (*vide* list at Appendix III).

8. The Committee heard the evidence given by various associations, organisations, individuals, etc. at their sittings held on the 11th and 12th October, 1972 (*vide* list at Appendix IV).

9. The report of the Committee was to be presented by the 13th November, 1972. The Committee were granted five extensions of time the first extension on 13th November, 1972 upto the 22nd December, 1972; the second extension on the 15th December, 1972 upto the 30th March, 1973, the third extension on the 26th March, 1973 up to the 27th July, 1973; the fourth extension on the 25th July, 1973 upto the 17th December, 1973; and the fifth extension on the 10th December, 1973 upto the 7th May, 1974.

10. The Committee considered the Bill clause-by-clause at their sittings held from the 8th to 11th April, 1974.

*Published in the Gazette of India, Extraordinary, Part II, Section 2 dated the 31st May, 1972.

11. At their sitting held on the 11th April, 1974, the Committee decided that two copies each of the (i) evidence tendered before them; and (ii) memoranda received by them from various associations, organisations, etc. might be placed in Parliament Library, after the report of the Committee was presented, for reference by the members of Parliament.

12. The Committee considered and adopted the report on the 25th April, 1974.

13. The observations of the Committee with regard to the changes proposed in the Bill are detailed in the succeeding paragraphs.

14. *Clause 2.*—The Committee feel that it would be convenient to define the expression “period of disturbance”.

A new definition has been added accordingly. The Committee also feel that it should be made clear that Special Courts will have jurisdiction only in respect of offences specified in the Schedule to the Bill which form part or arise out of or are connected with disturbances of the nature referred to in clause 3. The definition of “scheduled offence” has been amended for this purpose

15. *Clause 3.*—

(i) *Sub-clause (1).*—The amendments made are of drafting nature.

(ii) *Sub-clause (2).*—The Committee feel that the period to be specified in the notification should not be fixed arbitrarily but should be related to the period of disturbance. The commencement of the period specified in the notification should not be earlier than the date of commencement of the disturbance and the period should be terminated when the disturbance has ceased. The Committee also feel that the period should not be made to commence from a date earlier than three months before the date of publication of the notification.

Sub-clause (2) has been amended accordingly. Other amendments made are of drafting nature.

16. *Clause 4.*—

(i) *Sub-clause (2).*—The Committee feel that this sub-clause should be changed to bring it in line with the provisions of the new Code of Criminal Procedure dealing with appointment of Judicial Magistrates. The sub-clause has been amended accordingly.

(ii) *Sub-clauses (3) and (4).*—The Committee are of the view that it would not be appropriate to appoint a sitting Judge of a High Court as a Special Judge. The Committee are also of the view that it would not be appropriate to appoint retired persons. For these purposes, sub-clause (3) has been amended and a new sub-clause (4) has been substituted for existing sub-clause (4) which is being omitted as superfluous.

17. *Clause 5.*—The amendment is of a drafting nature.

18. *Clause 6.*—

(i) *Sub-clauses (1) to (3).*—The Committee feel that scheduled offences should be cognizable. The Committee also feel that consequent

upon the enactment of the new Code of Criminal Procedure, 1973, a few changes are necessary to provide for certain matters like the supply of copies of statements, etc. and the procedure to be followed in a case where the offence is exclusively triable by a Court of Sessions and also in other cases. In the case of offences triable by a Court of Sessions, the revised procedure of commitment under the new Code has to be followed. In other cases, a certificate from the Public Prosecutor has been provided for as a safeguard to ensure that cases unconnected with disturbances are not taken cognizance of. The Committee also feel that where in the course of summary trial, it appears to the Special Court that the the case is one which is of a character which should not be tried summarily, the Court may recall any witness who may have been examined and proceed to hear the case in accordance with the procedure prescribed in the Code of Criminal Procedure, for trial of such cases.

Sub-clauses (1) to (3) have been amended to provide for these matters.

(ii) Sub-clause (6) [original sub-clause (4)].—The amendments made are of a consequential nature.

19. *Clauses 7 to 9.*—The amendments made are of a consequential and drafting nature.

20. *Clause 1 and Enacting Formula*—The amendments made are of a formal nature.

21. The Joint Committee recommend that the Bill, as amended, be passed.

NEW DELHI;

April 30, 1974.

Vaisakha 10, 1896 (Saka)

L. D. KOTOKI,

Chairman,

Joint Committee.

MINUTES OF DISSSENT

I

We could have heartily supported the Disturbed Areas (Special Courts) Bill if it had conformed to the recommendation of the National Integration Council that "special courts with summary powers to deal with the offences connected with communal disturbances should be constituted." But the Bill seeks to cover offences connected with not only communal disturbances but also linguistic and regional disturbances. Thus the Bill distorts and vitiates the recommendation of the National Integration Council.

2. The operative part of the Bill is not consistent with the statement of objects and reasons of the Bill. There are three reasons for enacting this Bill as given in the statement of objects and reasons. None of these reasons justify that offences arising out of linguistic and regional disputes should be made tribal by Special Courts, as has been provided in this Bill.

3. It is a dangerous underestimation of communal disturbances to treat them on equal footing with linguistic or regional disturbances. Whereas the former deserves speedy suppression by effective means, the latter deserve political solution as has been done in the case of movements for linguistic states.

4. State Governments concerned will come into dangerous conflict with one another jeopardising the very object of national integration if they are empowered to set up special courts to deal with offences arising out of linguistic and regional disputes. It should be the responsibility of Central authority to settle linguistic and regional disputes on a principled basis in time obviating any large scale disturbance on that count.

5. Empowering State Governments to set up Special Courts for trying offences arising out of linguistic or regional disputes will, in practice, result into suppression and suffering of linguistic minorities.

6. A State Government should not have unlimited power to extend the period of notification declaring an area as disturbed area for the purpose of this Bill. It should not have the power to extend the notification beyond another period not exceeding three months.

7. The legislature of the State concerned should also be brought in to give its judgement in an appropriate manner consistent with the objective of speedy trial in notifying an area to be a disturbed one for the purpose of this Bill. But the Bill does not provide for it.

NEW DELHI;
April 25, 1974.

SARJOO PANDEY
YOGENDRA SHARMA

II

I am giving this note of dissent to this Bill on the following grounds and hold that this bill should not be proceeded with.

- (i) Communal forces in the country have receded and the forces of secularism have grown. So there is no need for such an Act to curb religious type of communal offences for which National Integration Committee suggested for such an Act.
- (ii) The growth of secular forces has given the linguistic minorities in every State encouragement to assert their rights in a democratic manner. These linguistic minorities will be suppressed by this Act and the reactionary forces of majority community through their influences in the State Governments will utilise this Act to continue the suppression of the just aspirations of the linguistic minorities. Specially the tribal people with their spoken languages living in contiguous areas of all States of India are agitating for their just rights. This Act will put a curb on their just movements.
- (iii) This bill will not hasten speedy trial of offenders. On the contrary it will cause further delay in the trial due to procedural encumbrances.

NEW DELHI;
April 25, 1974.

BIREN DUTTA

III

After considerable modifications in the Code of Criminal Procedure there is no need to adopt this Bill at all.

Merely by giving powers to the State Governments to declare a particular area a 'disturbed area', the problem of ensuring peace and tranquility cannot be solved.

In the present explosive situation, strengthening of the executive arm of the Government is not going to establish peace in the disturbed areas. Very often it is the social mal-adjustments, economic discontent and failure to resolve inter-State disputes on the basis of well-defined norms and principles and not on the basis of political expediency that give rise to disturbances. The oppression of Scheduled Castes and Scheduled Tribes is also causing serious disturbances and a new upsurge among these oppressed sections to offer resistance to this oppression is discernible.

Under these circumstances without going to the root of the mal-adjustments, mere strengthening of the arm of the executive in declaring disturbed areas and of the judiciary in quick disposal of the cases, peace cannot return to the disturbed areas. If peace is established, it will only be an uneasy peace.

I am, therefore, totally opposed to the very basis of this Bill which seeks to tackle the problem of disturbed areas on an *ad hoc* basis in a superficial manner.

NEW DELHI;

MADHU DANDAVATE.

April 29, 1974.

Bill No. 54-B of 1972

THE DISTURBED AREAS (SPECIAL COURTS) BILL, 1972

[As reported by the Joint Committee]

[Words side-lined or underlined indicate the amendments suggested by the Committee; asterisks indicate omissions.]

A

BILL

to provide for the speedy trial of certain offences in certain areas and for matters connected therewith.

Be it enacted by Parliament in the Twenty-fifth Year of the Republic of India as follows:—

1. (1) This Act may be called the Disturbed Areas (Special Courts) Act, 1974.

Short title, extent and commencement.

5 (2) It extends ~~to the whole of India except the States of Jammu and Kashmir.~~

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different States or for different parts thereof.

10 2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "Code" means the Code of Criminal Procedure, 1973;

(b) "~~distributed~~ area" means an area declared as a disturbed area under section 3;

(c) period of disturbance, in relation to a disturbed area, means the period during which it is to be a disturbed area for the purposes of section 3;

(d) "scheduled offence" means an offence specified in the Schedule being an offence forming part or arising out of, or connected with, any such disturbance as is referred to in section 3;

(e) "Special Court" means a Special Court constituted under section 4;

(f) words and expressions used but not defined in this Act, and defined in the Code shall have the meanings respectively assigned to them in the Code.

Declara-
tion of
an area as
disturbed
area.

3. (1) Where a State Government is satisfied that—

- (i) there was, or
- (ii) there is,

in any area within a State extensive disturbance of the public peace and tranquillity, by reason of differences or disputes between members of different religious, racial, language or regional groups or castes or communities, it may, by notification in the Official Gazette, declare * such area to be * * * a disturbed area * * *

(2) A notification issued under sub-section (1) in respect of any area shall specify the period during which the area shall, for the purposes of this section, be a disturbed area and where the State Government is satisfied that there was such disturbance of the public peace as is referred to in sub-section (1) in that area from any date prior to the issue of such notification, the period specified in the notification may commence from that date:

Provided that—

(a) no period commencing from a date earlier than three months before the date of publication of the notification shall be specified therein; and

(b) so much of the period specified in such notification as is subsequent to the date of publication of the notification shall not, in the first instance, exceed three months but the State Government may amend such notification to extend such period from time to time by any period not exceeding three months at any one time if in the opinion of the State Government there continues to be in such area such disturbance of public peace and tranquillity as is referred to in sub-section (1):

Provided further that where the State Government is satisfied that there is no longer such disturbance of the public peace as is referred to in sub-section (1) in such area, it shall amend the notification issued under that sub-section in respect of that area to limit the period specified therein (whether originally or by amendment under the preceding proviso) accordingly.

4. (1) The State Government may, for the purpose of providing speedy trial of scheduled offences committed in disturbed areas, by notification in the Official Gazette, constitute as many Special Courts as may be necessary in or in relation to such disturbed area or areas as may be specified in the notification.

Constitution of Special Courts.

(2) A Special Court shall consist of a single judge who shall be appointed by the High Court upon a request made by the State Government.

Explanation.—In this sub-section, the word “appoint” shall have the meaning given to it in the *Explanation* to section 9 of the Code.

(3) A person shall not be qualified for appointment as a judge of a Special Court unless—

(a) he * * * is qualified for appointment as a judge of a High Court, or

(b) he has, for a period of not less than one year, been a Sessions Judge or an Additional Sessions Judge.

(4) Notwithstanding anything contained in sub-section (3), a person shall not be eligible for being appointed as, and for being, a Judge of a Special Court in any State after he has attained the age at which Sessions Judges in that State have to retire from service.

5. (1) Notwithstanding anything contained in the Code or any other law, a scheduled offence committed in any disturbed area at any time during the period during which it is a disturbed area shall be triable, whether during or after such period, only by the Special Court constituted in or in relation to the disturbed area in which the offence has been committed.

Jurisdiction of Special Courts.

(2) When trying any scheduled offence, a Special Court may also try any offence other than the scheduled offence with which the accused may, under the Code, be charged at the same trial if the offence is connected with the scheduled offence.

6. (1) Every scheduled offence shall be cognizable.

Procedure and powers of Special Courts.

(2) A Special Court may take cognizance of any scheduled offence,—

(a) where under the Code such offence is an offence triable exclusively by a Court of Session, upon its being committed to it under section 209 of the Code as if the Special Court were a Court of Session;

(b) in any other case, upon a police report of the facts together with a certificate from the public prosecutor to the effect that the offence is triable exclusively by the Special Court.

(3) Where a scheduled offence is an offence triable exclusively by a Court of Session under the Code, a Special Court shall have all the powers of a Court of Session and shall try such offence as if it were a Court of Session, so far as may be in accordance with the procedure prescribed in the Code for trial before a Court of Session.

(4) Where a scheduled offence is an offence which is punishable with imprisonment for a term exceeding three years but which, ac-

ording to the provisions of the Code, is not an offence triable exclusively by a Court of Session, a Special Court may on taking cognizance of the offence perform the functions of a Magistrate under section 207 of the Code and thereafter try such offence so far as may be in accordance with the procedure prescribed in the Code for trial before a Court of Session as if the Special Court were a Court of Session and the case had been committed to it for trial under the provisions of the Code. 5

(5) Where a scheduled offence is punishable with imprisonment for a term not exceeding three years or with fine or with both, a Special Court may, notwithstanding anything contained in sub-section (1) of section 260 or section 262 of the Code, try the offence in a summary way in accordance with the procedure prescribed in the Code and the provisions of sections 263 to 265 of the Code, shall so far as may be, apply to such trial: 10

Provided that when, in the course of a summary trial under this sub-section, it appears to the Special Court that the nature of the case is such that it is undesirable to try it summarily, the Special Court shall recall any witnesses who may have been examined and proceed to re-hear the case in the manner provided by the provisions of the Code for the trial of such offence and the said provisions shall apply to and in relation to a Special Court as they apply to and in relation to a Magistrate: 15 20

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

(6) A Special Court, may, with a view to obtaining the evidence of any person suspected to have been directly or indirectly concerned in or privy to, an offence, tender a pardon to such person on condition of his making a full and true disclosure of the whole circumstances within his knowledge relating to the offence and to every other person concerned whether as principal or abettor in the commission thereof and any pardon so tendered shall, for the purposes of section 308 of the Code, be deemed to have been tendered under section 307 thereof. 25 30

Power to transfer cases to regular courts.

7. Where, after taking cognizance of any offence, a Special Court is of opinion that the offence is not a scheduled offence, it shall, notwithstanding that it has no jurisdiction to try the case, transfer the case for trial to any court having jurisdiction under the Code and the court to which the case is transferred may proceed with the case as if it had taken cognizance of the offence. 35

Appeal and revision.

8. The High Court may exercise, so far as they may be applicable, all the powers conferred by Chapters XXIX and XXX of the Code on a High Court, as if a Special Court is a Court of Session trying cases within the local limits of the jurisdiction of the High Court. 40

Overriding effect of Act.

9. (1) The provisions of this Act shall have effect notwithstanding anything contained in the Code or any other law, but save as expressly provided in this Act, the provisions of the Code shall, in so far as they are not inconsistent with the provisions of this Act, apply to the proceedings before a Special Court; and for the purposes of the said provisions of the Code, the Special Court shall be deemed to be a Court of Session * * * and the person conducting a prosecution before a Special Court shall be deemed to be a public prosecutor. 45 50

(2) In particular and without prejudice to the generality of the provisions contained in sub-section (1), the provisions of sections 326 and 475 of the Code shall, so far as may be, apply to the proceedings before a Special Court, and for this purpose references in those provisions to a Magistrate shall be construed as references to the Special Court.

10. (1) Nothing in this Act shall affect the jurisdiction exercisable by, or the procedure applicable to, any court or other authority under any law relating to the naval, military or air forces or any other armed forces of the Union.

Saving.

10 (2) For the removal of doubts, it is hereby declared that for the purposes of any such law as is referred to in sub-section (1), a Special Court shall be deemed to be a court of ordinary criminal justice.

THE SCHEDULE

[See section 2(c)]

- 45 of 1860. 1. Offences under the following provisions of the Indian Penal Code:—
- Section 120B;
 - Sections 143 to 145, 147, 148, 151 to 155, 157, 158 and 160;
 - Sections 182, 183, 186 to 190;
 - Sections 193 to 195, 199, 201 to 203, 211 to 214, 216, 216A and 225;
 - Sections 295 to 298;
 - Sections 302, 303, 304, 307, 308, 323 to 335, 341 to 348, 352 to 358, 363 to 369 and 376;
 - Sections 379, 380, 382, 384 to 387, 392 to 399, 402, 411, 412, 426, 427, 431, 435, 436, 440, 447 to 462;
 - Sections 504 to 506 and 509.
- 54 of 1959. 2. Offences under the following provisions of the Arms Act, 1959:—
- Sections 25 to 30.
- 4 of 1884. 3. Offences under the following provisions of the Indian Explosives Act, 1884:—
- Sections 6(3) and 8(2).

APPENDIX I

(Vide Para 2 of the Report)

Motion in Lok Sabha for reference of the Bill to the Joint Committee

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

- (1) Shri R. D. Bhandare
- (2) Shri M. C. Daga
- (3) Shri Madhu Dandavate
- (4) Shri Tulsidas Dasappa
- (5) Shri Biren Dutta
- (6) Shri C. D. Gautam
- (7) Shri Dinesh Chander Goswami
- (8) Shrimati Subhadra Joshi
- (9) Dr. Kailas
- (10) Shri Purushottam Kakodkar
- (11) Shri Sat Pal Kapur
- (12) Shri L. D. Kotoki
- (13) Shrimati T. Lakhshmikanthamma
- (14) Shri Mukhtiar Singh Malik
- (15) Shri Prasannbhai Mehta
- (16) Shri G. S. Mishra
- (17) Shri F. H. Mohsin
- (18) Shri Priya Ranjan Das Munsi
- (19) Shri Balakrishna Venkanna Naik
- (20) Shri Sarjoo Pandey
- (21) Shri K.C. Pant
- (22) Shri H. M. Patel
- (23) Shri M. Satyanarayan Rao
- (24) Shri Ebrahim Sulaiman Sait
- (25) Shri Nawal Kishore Sharma
- (26) Shri B. R. Shukla
- (27) Shri N. Tombi Singh
- (28) Shri C. M. Stephen
- (29) Shri K. Veeriah
- (30) Shri R. P. Yadav

and 15 from Rajya Sabha:

- that in order to constitute a sitting of the Joint Committee the quorum shall be one-third of the total number of members of the Joint Committee;
- that the Committee shall make a report to this House by the first day of the next session;
- that in other respects the Rules of Procedure of this House relating to Parliamentary Committee shall apply with such variations and modifications as the Speaker may make; and
- that this House do recommend to Rajya Sabha that Rajya Sabha do join the said Joint Committee and communicate to this House the names of 15 members to be appointed by Rajya Sabha to the Joint Committee."
-

APPENDIX II

(Vide para 3 of the Report)

Motion in Rajya Sabha

“That this House concurs in the recommendation of the Lok Sabha that the Rajya Sabha do join in the Joint Committee of the Houses on the Bill to provide for the speedy trial of certain offences in certain areas and for matters connected therewith, and resolves that the following members of the Rajya Sabha be nominated to serve on the said Joint Committee:—

1. Shri Todak Basar
 2. Shri S. B. Bobdey
 3. Shri Nabin Chandra Buragohain
 4. Shri Mahendra Mohan Choudhury
 5. Shrimati Sita Devi
 6. Shri Ibrahimbai Kasambhai Kalaria
 7. Shri M. S. Abdul Khader
 8. Dr. Bhai Mahavir
 9. Shri Veerendra Patil
 10. Shri Hamid Ali Schamnad
 11. Shri Yogendra Sharma
 12. Shri Bhola Paswan Shastri
 13. Shri Ranbir Singh
 14. Shri Sitaram Singh
 15. Shri Sikandar Ali Wajd.”
-

APPENDIX III

(Vide Para 7 of the Report)

List of Associations, Organisations, etc. from whom Memoranda were received by the Joint Committee

1. Supreme Court Bar Association, New Delhi.
 2. Government of Meghalaya, Political Department, Shillong.
 - 3 Bar Council of Uttar Pradesh, Allahabad.
 - 4 Madhya Pradesh Government, Department of Law and Legislative Affairs, Bhopal.
-

APPENDIX IV

(Vide para 8 of the Report)

List of Associations, etc. who gave evidence before the Joint Committee.

S. No.	Name of Associations	Date on which evidence was taken
1.	<i>Bar Association of Supreme Court of India, New Delhi.</i>	11-10-1972
	<i>Spokesman</i> Dr. W. S. Barlingay, Advocate.	
2.	<i>Delhi High Court Bar Association, New Delhi.</i>	12-10-72
	<i>Spokesmen</i> 1. Shri Kulwant Singh Bindra—Vice President. 2. Shri Yogesh K. Sabharwal—Secretary.	

APPENDIX V

Minutes of the sittings of the Joint Committee on the Disturbed Areas (Special Courts) Bill, 1972

I

First Sitting

The Committee sat on Monday, the 28th August, 1972 from 15.00 to 15.45 hours.

PRESENT

Shri R. D. Bhandare—*Chairman*

MEMBERS

Lok Sabha

2. Shri M. C. Daga
3. Shri Biren Dutta
4. Shri C. D. Gautam
5. Shrimati Subhadra Joshi
6. Dr. Kailas
7. Shri Purushottam Kakodkar
8. Shri Prasannbhai Mehta
9. Shri F. H. Mohsin
10. Shri Balakrishna Venkanna Naik
11. Shri Sarjoo Pandey
12. Shri Nawal Kishore Sharma
13. Shri R. P. Yadav

Rajya Sabha

14. Shri Todak Basar
15. Shri Nabin Chandra Buragohain
16. Shrimati Sita Devi
17. Shri Bhola Paswan Shastri
18. Shri Ranbir Singh

LEGISLATIVE COUNSEL

1. Shri K. K. Sundaram—*Joint Secretary and Legislative Counsel.*
2. Shri R. V. S. Peri-Sastri—*Additional Legislative Counsel.*

REPRESENTATIVES OF THE MINISTRY OF HOME AFFAIRS

1. Shri T. C. A. Srinivasavaradan—*Joint Secretary*
2. Shri S. Balakrishnan—*Joint Secretary.*

SECRETARIAT

Shri H. G. Paranjpe—*Deputy Secretary.*

2. Shri Ram Niwas Mirdha, Minister of State in the Ministry of Home Affairs, who is not a member of the Joint Committee, attended the sitting with the permission of Chairman under Rule 299 of the Rules of Procedure and Conduct of Business in Lok Sabha.

3. Before the Committee proceeded to hear the evidence of Dr. W. S. Barlingay, Advocate, representative of the Bar Association of Supreme Court of India, New Delhi, the Chairman drew his attention to Direction 58 of the Directions by the Speaker.

The evidence lasted till 17.15 hours

4. A verbatim record of evidence was kept.

5. The Committee then adjourned to meet at 11.00 hours on Thursday, the 12th October, 1972.

III
Third Sitting

The Committee sat on Thursday, the 12th October, 1972 from 11.00 to 13.10 hours.

PRESENT

Shri R. D. Bhandare—*Chairman*

MEMBERS*Lok Sabha*

2. Shri M. C. Daga
3. Shri Madhu Dandavate
4. Shri Tulsidas Dasappa
5. Shri Biren Dutta
6. Shri C. D. Gautam
7. Shri Dinesh Chander Goswami
8. Dr. Kailas
9. Shri Purushottam Kakodkar
10. Shri L. D. Kotoki
11. Shri Mukhtiar Singh Malik
12. Prasannbhai Mehta
13. Shri F. H. Mohsin
14. Shri Balakrishna Venkanna Naik
15. Shri Sarjoo Pandey
16. Shri H. M. Patel
17. Shri M. Satyanarayan Rao
18. Shri Ebrahim Sulaiman Sait
19. Shri Nawal Kishore Sharma
20. Shri B. R. Shukla
21. Shri R. P. Yadav

Rajya Sabha

22. Shri Todak Basar
23. Shri S. B. Bobdey
24. Shri Nabin Chandra Buragohain
25. Shri Mahendra Mohan Choudhury
26. Shrimati Sita Devi
27. Shri Ibrahimhai Kasambhai Kalaria
28. Shri M. S. Abdul Khader
29. Dr. Bhai Mahavir
30. Shri Veerendra Patil
31. Shri Hamid Ali Schamnad
32. Shri Yogendra Sharma
33. Shri Bhola Paswan Shastri
34. Shri Ranbir Singh
35. Shri Sitaram Singh
36. Shri Sikandar Ali Wajid

LEGISLATIVE COUNSEL

Shri R. V. S. Peri-Sastri—*Additional Legislative Counsel.*

REPRESENTATIVES OF THE MINISTRY OF HOME AFFAIRS

1. Shri S. Balakrishnan—*Joint Secretary.*
2. Shri Shyamal Ghosh—*Under Secretary.*

SECRETARIAT

Shri H. G. Paranjpe—*Deputy Secretary.*

2. Shri Ram Niwas Mirdha, Minister of State in the Ministry of Home Affairs, who is not a member of the Committee, attended the sitting with the permission of the Chairman under Rule 299 of the Rules of Procedure and Conduct of Business in Lok Sabha.

3. Before the Committee proceeded to hear the evidence of the following representatives of the Delhi High Court Bar Association, New Delhi, the Chairman drew their attention to the provisions of Direction 58 of the Directions by the Speaker:—

1. Shri Kulwant Singh Bindra—*Vice-President.*
2. Shri Yogesh K. Sabharwal—*Secretary.*

The evidence lasted till 13.00 hours.

4. A verbatim record of evidence was kept.

5. The Committee felt that since they had still to consider and complete the various stages of the Bill, it would not be possible for them to present their report by the stipulated date. The Committee, therefore, decided to ask for an extension of time for presentation of their Report upto the last day of the November-December, 1972 session.

6. The Committee authorised the Chairman and, in his absence, Shri Nawal Kishore Sharma, to move necessary motion in the House on Monday, the 13th November, 1972 for extension of time.

7. The Committee then decided to have general discussion on the points arising out of the evidence given before them at their next sitting to be held at 15.00 hours on Friday, the 10th November, 1972.

8. The Committee then adjourned.

IV

Fourth Sitting

The Committee sat on Friday, the 10th November, 1972 from 15.00 to 17.20 hours.

PRESENT

Shri R. D. Bhandare—*Chairman*

MEMBERS

Lok Sabha

2. Shri M. C. Daga
3. Shri Madhu Dandavate
4. Shri Biren Dutta
5. Shri C. D. Gautam
6. Shri Dinesh Chander Goswami
7. Shri Purushottam Kakodkar
8. Shri Sat Pal Kapur
9. Shri L. D. Kotoki
10. Shri Mukhtiar Singh Malik
11. Shri Prasannbhai Mehta
12. Shri Sarjoo Pandey
13. Shri H. M. Patel
14. Shri M. Satyanarayan Rao
15. Shri Nawal Kishore Sharma
16. Shri N. Tombi Singh
17. Shri C. M. Stephen
18. Shri R. P. Yadav

Rajya Sabha

19. Shri S. B. Bobdey
20. Shrimati Sita Devi
21. Shri Ibrahimbhai Kasambhai Kalaria
22. Shri M. S. Abdul Khader
23. Dr. Bhai Mahavir
24. Shri Yogendra Sharma
25. Shri Bhola Paswan Shastri
26. Shri Ranbir Singh
27. Shri Sitaram Singh

Shri R. V. S. Peri-Sastri—*Additional Legislative Counsel.*

REPRESENTATIVES OF THE MINISTRY OF HOME AFFAIRS

1. Shri T. C. A. Srinivasavardhan, *Joint Secretary.*
2. Shri S. Balakrishnan, *Joint Secretary.*
3. Shri Shyamal Ghosh, *Under Secretary.*

SECRETARIAT

Shri H. G. Paranjpe—*Deputy Secretary.*

2. Shri Ram Niwas Mirdha, Minister of State in the Ministry of Home Affairs, who is not a member of the Committee, attended the sitting with the permission of the Chairman under Rule 299 of the Rules of Procedure and Conduct of Business in Lok Sabha.

3. The Committee held a general discussion on the provisions of the Bill and the points arising out of evidence given before the Committee.

4. The Committee decided that the Ministry of Home Affairs might be asked to supply a brief summary of the Report of the Joint Committee on the Criminal Procedure Code (Amendment) Bill having a bearing on the provisions of the Disturbed Areas (Special Courts) Bill, 1972.

5. The Committee then considered their future programme of work. After some discussion, the Committee agreed to the following programme:—

- (i) Clause-by-clause consideration of the Bill on the 7th and 8th December, 1972.
- (ii) Notices of amendments might be submitted by the 1st December, 1972.

5. The Committee then adjourned.

V

Fifth Sitting

The Committee sat on Thursday, the 7th December, 1972 from 15.00 to 15.30 hours.

PRESENT

Shri R. D. Bhandare—*Chairman*

MEMBERS

Lok Sabha

2. Shri C. D. Gautam
3. Shri Purushottam Kakodkar
4. Shri Prasannbhai Mehta
5. Shri G. S. Mishra
6. Shri F. H. Mohsin
7. Shri Balakrishna Venkanna Naik
8. Shri Sarjoo Pandey
9. Shri H. M. Patel

10. Shri Todak Basar
11. Shrimati Sita Devi
12. Shri Hamid Ali Schamnad
13. Shri Yogendra Sharma
14. Shri Bhola Paswan Shastri
15. Shri Ranbir Singh

REPRESENTATIVES OF THE MINISTRY OF HOME AFFAIRS

1. Shri T. C. A. Srinivasavardhan, *Joint Secretary*.
2. Shri S. Balakrishnan, *Joint Secretary*.
3. Shri Shyamal Ghosh, *Under Secretary*.

SECRETARIAT

Shri H. G. Paranjpe—*Deputy Secretary*.

2. Shri Ram Niwas Mirdha, Minister of State in the Ministry of Home Affairs, who is not a member of the Committee, attended the sitting with the permission of the Chairman under Rule 299 of the Rules of Procedure and Conduct of Business in Lok Sabha.

3. The Committee were informed that the Code of Criminal Procedure Bill, 1970, as reported by the Joint Committee, makes several changes in the existing Code and some of the changes have a bearing on the provisions of the Disturbed Areas (Special Courts) Bill. In view of these changes, the Committee might take up further consideration of the Bill in the light of the provisions of the Code of Criminal Procedure Bill after the latter has been passed by the Parliament.

4. After some discussion, it was felt that it would not be possible for the Committee to complete their work by the stipulated date i.e. the 22nd December, 1972. The Committee, therefore, decided to ask for extension of time for presentation of their Report upto Friday, the 30th March, 1973.

5. The Committee authorised the Chairman and, in his absence, Shri Purushottam Kakodkar to move the necessary motion in the House.

6. The Committee then decided to meet again on Monday, the 29th January, 1973 to take up clause-by-clause consideration of the Bill.

7. The Committee then adjourned.

VI

Sixth Sitting

The Committee sat on Monday, the 29th January, 1973 from 15.00 to 15.40 hours.

PRESENT

Shri R. D. Bhandare—*Chairman*

MEMBERS

Lok Sabha

2. Shri M. C. Daga
3. Shri Madhu Dandavate
4. Shri Tulsidas Dasappa
5. Shri Biren Dutta
6. Shri C. D. Gautam
7. Dr. Kailas
8. Shri Purushottam Kakodkar
9. Shri Sat Pal Kapur
10. Shri L. D. Kotoki
11. Shri Mukhtiar Singh Malik
12. Shri F. H. Mohsin
13. Shri Priya Ranjan Das Munsi
14. Shri Balakrishna Venkanna Naik
15. Shri Sarjoo Pandey
16. Shri B. R. Shukla
17. Shri R. P. Yadav

Rajya Sabha

18. Shri S. B. Bobdey
19. Shri Nabin Chandra Buragohain
20. Shri Mahendra Mohan Choudhury
21. Shrimati Sita Devi
22. Dr. Bhai Mahavir
23. Shri Veerendra Patil
24. Shri Yogendra Sharma
25. Shri Bhola Paswan Shastri

REPRESENTATIVES OF THE MINISTRY OF HOME AFFAIRS

1. Shri T. C. A. Srinivasavardhan—*Joint Secretary*
2. Shri S. Balakrishnan—*Joint Secretary*.
3. Shrimati P. Ramachandran—*Director*.

SECRETARIAT

Shri H. G. Paranjpe—*Deputy Secretary*.

2. Shri Ram Niwas Mirdha, Minister of State in the Ministry of Home Affairs, who is not a member of the Committee, attended the sitting with the permission of the Chairman under Rule 299 of the Rules of Procedure and Conduct of Business in Lok Sabha.

3. The Chairman informed the Committee that, at their last sitting held on the 7th December, 1972, it was decided that further consideration of the Bill would be taken up in the light of the provisions of the Code

of Criminal Procedure Bill as passed by both Houses of Parliament. The Code of Criminal Procedure Bill had already been passed by Rajya Sabha and it was now pending in Lok Sabha.

4. After some discussion, the Committee felt that it would not be possible for them to complete their work by the stipulated date *i.e.* 30th March, 1973. The Committee, therefore, decided to ask for an other extention of time for presentation of their Report upto the last day of the first week of the next Monsoon Session, 1973.

5. The Committee authorised the Chairman and, in his absence, Shri C. D. Gautam to move the necessary motion in the House during the forth-coming Budget Session.

6. The Committee then adjourned.

VII

Seventh Sitting

The Committee sat on Tuesday, the 15th May, 1973 from 10.00 to 1.30 hours.

PRESENT

Shri L. D. Kotoki—*Chairman*

MEMBERS

Lok Sabha

2. Shri Madhu Dandavate
3. Shri Biren Dutta
4. Shri C. D. Gautam
5. Shri Dinesh Chander Goswami
6. Dr. Kailas
7. Shrimati T. Lakshmikanthamma
8. Shri Prasannbhai Mehta
9. Shri Sarjoo Pandey
10. Shri H. M. Patel
11. Shri M. Satyanarayan Rao
12. Shri Ebrahim Sulaiman Sait
13. Shri B. R. Shukla

Rajya Sabha

14. Shri S. B. Bobdey
15. Shri Nabin Chandra Buragohain
16. Shrimati Sita Devi
17. Shri M. S. Abdul Khader
18. Shri Yogendra Sharma

LEGISLATIVE COUNSEL

Shri R. V. S. Peri-Sastri—*Joint Secretary and Legislative Counsel,*

1. Shri Balakrishnan—*Joint Secretary.*
2. Smt. P. Ramachandran—*Director.*
3. Shri Shyamal Ghosh—*Under Secretary.*

SECRETARIAT

Shri H. G. Paranjpe—*Deputy Secretary.*

2. Shri Ram Niwas Mirdha, Minister of State in the Ministry of Home Affairs, who is not a member of the Committee, attended the sitting with the permission of the Chairman under Rule 299 of the Rules of Procedure and Conduct of Business in Lok Sabha.

3. The Committee considered their future programme of work. After some discussion, the Committee decided that the provisions of the Code of Criminal Procedure Bill might be reviewed with a view to determining whether they cover the same ground as the Disturbed Areas (Special Courts) Bill, 1972 and also for determining whether any amendments should be recommended to the Code of Criminal Procedure Bill.

4. The Committee then decided to meet on Wednesday, the 27th June at 15.00 hours and Thursday, the 28th June, 1973 at 11.00 hours to consider the matter.

5. The Committee then adjourned.

VIII

Eighth Sitting

The Committee sat on Wednesday, the 27th June, 1973 from 15.00 to 16.00 hours.

PRESENT

Shri L. D. Kotoki—*Chairman*

MEMBERS

Lok Sabha

2. Shri Biren Dutta
3. Shri C. D. Gautam
4. Dr. Kailas
5. Shrimati T. Lakshmikanthamma
6. Shri Mukhtiar Singh Malik
7. Shri G. S. Mishra
8. Shri Priya Ranjan Das Munsi
9. Shri Sarjoo Pandey
10. Shri M. Satyanarayan Rao

11. Shri Ebrahim Sulaiman Sait
12. Shri Nawal Kishore Sharma
13. Shri B. R. Shukla
14. Shri N. Tombi Singh
15. Shri C. M. Stephen

Rajya Sabha

16. Shri S. B. Bobdey
17. Shri Nabin Chandra Buragohain
18. Shrimati Sita Devi
19. Shri M. S. Abdul Khader
20. Dr. Bhai Mahavir
21. Shri Yogendra Sharma
22. Shri Ranbir Singh

LEGISLATIVE COUNSEL

Shri S. K. Maitra—*Joint Secretary and Legislative Counsel.*

REPRESENTATIVES OF THE MINISTRY OF HOME AFFAIRS

1. Shri S. Balakrishnan—*Joint Secretary.*
2. Shri Shyamal Ghosh—*Under Secretary.*

SECRETARIAT

Shri H. G. Paranjpe—*Deputy Secretary.*

2. Shri Ram Niwas Mirdha, Minister of State in the Ministry of Home Affairs, who is not a member of the Committee, attended the sitting with the permission of the Chairman under Rule 299 of the Rules of Procedure and Conduct of Business in Lok Sabha.

3. The Committee took up consideration of the note showing the points of similarity between the provision of the Disturbed Areas (Special Courts) Bill, 1972 and those of the Criminal Procedure Code Bill as passed by Rajya Sabha. The discussion was not concluded.

4. The Committee then adjourned to meet again on Thursday, the 28th June, 1973 at 11.00 hours.

IX

Ninth Sitting

The Committee sat on Thursday, the 28th June, 1973 from 11.00 to 11.50 hours.

PRESENT

Shri L. D. Kotoki—*Chairman*

MEMBERS
Lok Sabha

2. Shri C. D. Gautam
3. Dr. Kailas
4. Shrimati T. Lakshmikanthamma
5. Shri Mukhtiar Singh Malik
6. Shri Sarjoo Pandey
7. Shri M. Satyanarayan Rao
8. Shri Ebrahim Sulaiman Sait
9. Shri Nawal Kishore Sharma
10. Shri N. Tombi Singh

Rajya Sabha

11. Shri S. B. Bobdey
12. Shri Nabin Chandra Buragohain
13. Shrimati Sita Devi
14. Shri Ibrahimbhai Kasambhai Kalaria
15. Shri M. S. Abdul Khader
16. Dr. Bhai Mahavir
17. Shri Yogendra Sharma
18. Shri Ranbir Singh

LEGISLATIVE COUNSEL

Shri S. K. Maitra—*Joint Secretary and Legislative Counsel.*

REPRESENTATIVES OF THE MINISTRY OF HOME AFFAIRS

1. Shri S. Balakrishnan — *Joint Secretary.*
2. Shri Shyamal Ghosh — *Under Secretary.*

SECRETARIAT

Shri H. G. Paranjpe—*Deputy Secretary.*

2. Shri Ram Niwas Mirdha, Minister of State in the Ministry of Home Affairs, who is not a member of the Committee, attended the sitting with the permission of the Chairman under Rule 299 of the Rules of procedure and Conduct of Business in Lok Sabha.

3. The Committee resumed discussion on the note showing the points of similarity between the Disturbed Areas (Special Courts) Bill, 1972 and the Code of Criminal Procedure Bill as passed by Rajya Sabha. The Committee felt that further consideration of the Bill might be postponed till the Code of Criminal Procedure Bill was passed by both the Houses of Parliament.

4. The Committee decided that as it would not be possible for them to complete their work by the stipulated date i.e. 27th July, 1973, they will ask for another extension of time for presentation of their Report by the first day of the last week of the Winter Session, 1973.

5. The Committee authorised the Chairman and, in his absence, Shri C. D. Gautam, M.P. to move necessary motion in the House.

6. The Committee authorised the Chairman to fix the next sitting of the Committee in order to finalise their future programme during the next session of Lok Sabha.

7. The Committee then adjourned.

X

Tenth Sitting

The Committee sat on Wednesday, the 29th August, 1973 from 15.00 to 16.00 hours.

PRESENT

Shri L. D. Kotoki—*Chairman*

MEMBERS

Lok Sabha

2. Shri Madhu Dandavate
3. Shri Biren Dutta
4. Shri C. D. Gautam
5. Shri Dinesh Chander Goswami
6. Dr. Kailas
7. Shri Purushottam Kakodkar
8. Smt. T. Lakshmikanthamma
9. Shri G. S. Mishra
10. Shri Balakrishna Venkanna Naik
11. Shri M. Satyanarayan Rao
12. Shri Ebrahim Sulaiman Sait
13. Shri B. R. Shukla
14. Shri C. M. Stephen
15. Shri R. P. Yadav

Rajya Sabha

16. Shri Ranbir Singh

LEGISLATIVE COUNSEL

Shri R. V. S. Peri-Sastri—*Joint Secretary and Legislative Counsel.*

REPRESENTATIVES OF THE MINISTRY OF HOME AFFAIRS

1. Shri T. C. A. Srinivasavardan—*Additional Secretary.*
2. Shri S. Balakrishnan — *Joint Secretary.*
3. Shri Shayamal Ghosh — *Under Secretary.*

SECRETARIAT

Shri H. G. Paranjpe—*Deputy Secretary.*

2. Shri Ram Niwas Mirdha, Minister of State in the Ministry of Home Affairs, who is not a member of the Committee, attended the sitting

with the permission of the Chairman under Rule 299 of the Rules of Procedure and Conduct of Business in Lok Sabha.

3. The Committee considered their future programme of work. After some discussion, the Committee decided to hold their sitting on the 30th and 31st October, 1973 to take up clause-by-clause consideration of the Bill.

4. The Committee also decided that the members might give notices of amendments, if any, to the Bill by Saturday, the 20th October, 1973.

5. The Committee then adjourned.

XI

Eleventh Sitting

The Committee sat on Wednesday, the 28th November, 1973 from 15.00 to 15.45 hours.

PRESENT

Shri L. D. Kotoki—*Chairman*

MEMBERS

Lok Sabha

2. Shri Madhu Danavate
3. Shri C. D. Gautam
4. Shri Dinesh Chander Goswami
5. Dr. Kailas
6. Shri Vikram Mahajan
7. Shri Balakrishna Venkanna Naik
8. Shri Sarjoo Pandey
9. Shri H. M. Patel
10. Shri Ebrahim Sulaiman Sait
11. Shri B. R. Shukla
12. Shri N. Tombi Singh

Rajya Sabha

13. Shri Nabin Chandra Buragohain
14. Shrimati Sita Devi
15. Shri Ranbir Singh

LEGISLATIVE COUNSEL

Shri R. V. S. Peri-Sastri—*Joint Secretary and Legislative Counsel.*

REPRESENTATIVES OF THE MINISTRY OF HOME AFFAIRS

1. Shri S. Balakrishnan—*Joint Secretary.*
2. Shri Shyamal Ghosh—*Under Secretary.*

SECRETARIAT

Shri H. G. Paranjpe—*Deputy Secretary.*

2. Shri Ram Niwas Mirdha, Minister of State in the Ministry of Home Affairs, who is not a member of the Committee, attended the sitting with the permission of the Chairman under Rule 299 of the Rules of Procedure and Conduct of Business in Lok Sabha.

3. The Committee were informed that the Code of Criminal procedure Bill was still pending in the Lok Sabha. After some discussion, the the Committee felt that it would not be possible for them to complete work by the stipulated date i.e 17th December, 1973 and decided to ask for another extension of time for presentation of their Report by the first day of the last week of the next session (Budget Session, 1974).

4. The Committee then approved Memorandum giving reasons for extension of time for presentation of the Report for circulation to all Members of Lok Sabha.

5. The Committee authorised the Chairman and, in his absence Shri B. R. Shukla, to move the necessary motion in the House on the 10th December, 1973.

6. The Committee also authorised the Chairman to fix the next sitting of the Committee during the next inter-session period.

7. The Committee then adjourned.

XII

Twelfth Sitting

The Committee sat on Friday, the 18th January, 1974 from 15.00 to 15.30 hours.

PRESENT

Shri L. D. Kotoki—*Chairman*

MEMBERS

Lok Sabha

2. Shri M. C. Daga
3. Shri Biren Dutta
4. Dr. Kailas
5. Shrimati T. Lakshmikanthamma
6. Shri Mukhtiar Singh Malik
7. Shri G. S. Mishra
8. Shri M. Satyanarayan Rao
9. Shri Nawal Kishore Sharma
10. Shri N. Tombi Singh
11. Shri C. M. Stephen

Rajya Sabha

12. Shri Nabin Chandra Baragohain
13. Shrimati Sita Devi

14. Shrimati Jahanara Jaipal Singh
15. Shri Veerendra Patil
16. Shri Hamid Ali Schamnad
17. Shri Ranbir Singh

LEGISLATIVE COUNSEL

Shri R. V. S. Peri-Sastri—*Joint Secretary and Legislative Counsel.*

REPRESENTATIVES OF THE MINISTRY OF HOME AFFAIRS

1. Shri S. Balakrishnan—*Joint Secretary.*
2. Shrimati P. Ramachandran—*Director.*

SECRETARIAT

Shri H. G. Paranjpe—*Deputy Secretary.*

2. Shri Ram Niwas Mirdha, Minister of State in the Ministry of Home Affairs, who is not a member of the Committee, attended the sitting with the permission of the Chairman under Rule 299 of the Rules of Procedure and Conduct of Business in Lok Sabha.

3. The Committee mourned the death of Shri Kamal Nath Tewari, Chairman, Estimates Committee and passed the following resolutions:—

“The Committee place on record their profound sense of sorrow over the sudden demise on the 17th January, 1974 of their most esteemed colleague, Shri Kamal Nath Tewari, Chairman, Estimates Committee and send their heartfelt condolences to the members of the bereaved family.”

Thereafter, the Members stood in silence for a short while as a mark of respect to the deceased.

3. The Committee then adjourned.

XIII

Thirteenth Sitting

The Committee sat on Wednesday, the 30th January, 1974 from 11.00 to 13.00 hours.

PRESENT

Shri L. D. Kotoki—*Chairman*

MEMBERS

Lok Sabha

2. Shri M. C. Daga
3. Shri Madhu Dandavate
4. Shri Tulsidas Dasapra
5. Shri Biren Dutta
6. Shri C. D. Gautam
7. Dr. Kailas

8. Shri Purushottam Kakodkar
9. Shrimati T. Lakshmikanthamma
10. Shri Mukhtiar Singh Malik
11. Shri Prasannbhai Mehta
12. Shri F. H. Mohsin
13. Shri Priya Ranjan Das Munsi
14. Shri Balakrishna Venkanna Naik
15. Shri M. Satyanarayan Rao
16. Shri B. R. Shukla
17. Shri R. P. Yadav

Rajya Sabha

18. Shri S. B. Bobdey
19. Shri Nabin Chandra Buragohain
20. Shrimati Sita Devi
21. Shrimati Jahanara Jaipal Singh
22. Shri M. S. Abdul Khader
23. Dr. Bhai Mahavir
24. Shri Veerendra Patil
25. Shri Ranbir Singh
26. Shri Yogendra Sharma
27. Shri Sitaram Singh

LEGISLATIVE COUNSEL

Shri R. V. S. Peri-Sastri—*Joint Secretary and Legislative Counsel.*

REPRESENTATIVES OF THE MINISTRY OF HOME AFFAIRS

1. Shri S. Balakrishnan—*Joint Secretary.*
2. Shrimati P. Ramachandran—*Director.*

SECRETARIAT

Shri H. G. Paranjpe—*Deputy Secretary.*

2. Shri Ram Niwas Mirdha, Minister of State in the Ministry of Home Affairs, who is not a member of the Committee, attended the sitting with the permission of the Chairman under Rule 299 of the Rules of Procedure and Conduct of Business in Lok Sabha.

3. The Committee observed silence at 11 a.m. for two minutes in the memory of those who gave their lives in the struggle for India's freedom.

4. The Committee took up consideration of the note prepared by the Ministry of Home Affairs indicating the points of similarity between the provisions of the Disturbed Areas (Special Courts) Bill, 1972 and those of the Code of Criminal Procedure Bill, as passed by both Houses of Parliament. The discussion was not concluded.

5. The Committee adjourned at 13.00 hours to meet again on Thursday, the 31st January, 1974 at 11.00 hours.

XIV

Fourteenth Sitting

The Committee sat on Thursday, the 31st January, 1974 from 11.00 to 13.00 hours.

PRESENT

Shri L. D. Kotoki—*Chairman*

MEMBERS

Lok Sabha

2. Shri M. C. Daga
3. Shri Madhu Dandavate
4. Shri Tulsidas Dasappa
5. Shri Biren Dutta
6. Shri C. D. Gautam
7. Shri Dinesh Chander Goswami
8. Shrimati T. Lakshmikanthamma
9. Shri Vikram Mahajan
10. Shri Mukhtiar Singh Malik
11. Shri Prasannbhai Mehta
12. Shri Balakrishna Venkanna Naik
13. Shri N. Tombi Singh
14. Shri R. P. Yadav

Rajya Sabha

15. Shri S. B. Bobdey
16. Shri Nabin Chandra Buragohain
17. Shrimati Sita Devi
18. Shri Ibrahimbhai Kasambhai Kalaria
19. Dr. Bhai Mahavir
20. Shri Yogendra Sharma
21. Shri Ranbir Singh
22. Shri Sita Ram Singh

LEGISLATIVE COUNSEL

Shri R. V. S. Peri-Sastri—*Joint Secretary and Legislative Counsel.*

REPRESENTATIVES OF THE MINISTRY OF HOME AFFAIRS

1. Shrimati P. Ramachandran—*Director.*
2. Shri S. D. Srivastava—*Under Secretary.*

SECRETARIAT

Shri H. G. Paranjpe—*Deputy Secretary.*

2. Shri Ram Niwas Mirdha, Minister of State in the Ministry of Home Affairs, who is not a member of the Committee, attended the sitting with the permission of the Chairman under Rule 299 of the Rules of Procedure and Conduct of Business in Lok Sabha.

3. The Committee resumed discussion on the note prepared by the Ministry of Home Affairs indicating the points of similarity between the provisions of the Disturbed Areas (Special Courts) Bill, 1972 and those of the Code of Criminal Procedure Bill, as passed by both Houses of Parliament. The discussion concluded at 13.00 hours.

4. The Committee then considered their future programme of work and decided as follows:—

(i)	Last date for receipt of notices of Government amendments.	Monday, the 25th February, 1974.
(ii)	Last date for receipt of notices of amendments from Members.	Monday, the 11th March, 1974.
(iii)	Clause-by-Clause consideration of the Bill.	Wednesday the 20th and Thursday, the 21st March 1974.
(iv)	Consideration of draft Report.	Thursday, the 4th April, 1974.
(v)	Presentation of Report.	Thursday, the 11th April, 1974.

5. The Committee then adjourned.

XV

Fifteenth Sitting

The Committee sat on Wednesday, the 20th March, 1974 from 15.00 to 15.30 hours.

PRESENT

Shri L. D. Kotoki—*Chairman*

MEMBERS

Lok Sabha

2. Shri Biren Dutta
3. Shri C. D. Gautam
4. Dr. Kailas
5. Shri Prasannbhai Mehta
6. Shri F. H. Mohsin
7. Shri Sarjoo Pandey

Rajya Sabha

8. Shri S. B. Bobdey

LEGISLATIVE COUNSEL

Shri R. V. S. Peri-Sastri—*Joint Secretary and Legislative Counsel.*

REPRESENTATIVES OF THE MINISTRY OF HOME AFFAIRS

1. Shri S. Balakrishnan—*Joint Secretary.*
2. Shri B. R. Patel—*Joint Secretary.*
3. Shrimati P. Ramachandran—*Director.*
4. Shri S. D. Srivastava—*Under Secretary.*

SECRETARIAT

Shri H. G. Paranjpe—*Deputy Secretary.*

2. The Committee adjourned for want of quorum.

3. The Chairman announced that the sittings of the Committee fixed for the 21st March and 4th April, 1974 stand cancelled. He further announced that the Committee would take up clause-by-clause consideration of the Bill at their sittings to be held on Monday, the 8th April and Tuesday, the 9th April, 1974 and consideration and adoption of draft report on Thursday, the 25th April, 1974, daily at 09.30 hours.

XVI

Sixteenth Sitting

The Committee sat on Monday, the 8th April, 1974 from 09.30 to 10.50 hours.

PRESENT

Shri L. D. Kotoki—*Chairman*

MEMBERS

Lok Sabha

2. Shri Madhu Dandavate
3. Shri C. D. Gautam
4. Shri Purushottam Kakodkar
5. Shri F. H. Mohsin
6. Shri Balakrishna Venkanna Naik
7. Shri H. M. Patel

8. Shri B. R. Shukla
9. Shri N. Tombi Singh

Rajya Sabha

10. Shri S. B. Bobdey
11. Shri Nabin Chandra Buragohain
12. Shri M. S. Abdul Khader
13. Dr. Bhai Mahavir
14. Shri Hamid Ali Schamnad
15. Shri Yogendra Sharma
16. Shri Ranbir Singh
17. Shri Sikander Ali Wajd

LEGISLATIVE COUNSEL

Shri R. V. S. Peri-Sastri—*Joint Secretary and Legislative Counsel.*

REPRESENTATIVES OF THE MINISTRY OF HOME AFFAIRS

1. Shri S. Balakrishnan—*Joint Secretary.*
2. Shri B. R. Patel—*Joint Secretary.*
3. Shrimati P. Ramachandran—*Director.*
4. Shri S. D. Srivastava—*Under Secretary.*

SECRETARIAT

Shri H. G. Paranjpe—*Deputy Secretary.*

2. The Committee took up clause-by-clause consideration of the Bill.
3. Clause 2.—The following amendments were accepted:—

- (i) Page 1, line 11,
for "1898" substitute "1973"
- (ii) Page 1, after line 13, insert—

“(bb) period of disturbance, in relation to a disturbed area, means the period during which it is a disturbed area under section 3;”

II. The notices of amendments which were considered and not accepted by the Committee are given in the Annexure.

The clause, as amended, was adopted.

4. Clause 3.—Consideration of the clause was held over.

5. The Committee then adjourned to meet again at 09.30 hours on Tuesday, the 9th April, 1974.

ANNEXURE

List of notices of amendments considered and not accepted at the sitting of the Joint Committee held on the 8th April, 1974

S. No. Name of Member and text of amendment

Clause 2

SHRI H. M. PATEL

1. Page 1, line 15, after "Schedule" insert

"and committed during the disturbance in the area declared because of it to be disturbed area under Sec. 3;"

SHRI BIREN DUTTA

2. Page 1, line 15, after "Schedule" insert

"and committed during the communal disturbance"

SHRI BHAI MAHAVIR

SHRI MUKHTIAR SINGH MALIK

3. Page 1, line 15, after "Schedule" insert

"and committed during the disturbances in the area so declared;"

SHRI INDRAJIT GUPTA

- *4. Page 1, after line 15 add

"provided such offence is committed in furtherance of differences or disputes between members of different religions, racial, language, or regional groups or castes or communities;"

*Stands referred to the Joint Committee under Rule 301 of the Rules of Procedure.

XVII

Seventeenth Sitting

The Committee sat on Tuesday, the 9th April, 1974 from 09.30 to 10.50 hours.

PRESENT

Shri L. D. Kotoki—*Chairman*

MEMBERS

Lok Sabha

2. Shri M. C. Daga
3. Shri Madhu Dandavate
4. Shri C. D. Gautam
5. Dr. Kailas
6. Shri Purushottam Kakodkar
7. Shri F. H. Mohsin
8. Shri Sarjoo Pandey
9. Shri H. M. Patel
10. Shri Nawal Kishore Sharma
11. Shri B. R. Shukla
12. Shri N. Tombi Singh

Rajya Sabha

13. Shri S. B. Bobdey
14. Shri Nabin Chandra Buragohain
15. Shrimati Jahanara Jaipal Singh
16. Shri Ibrahimhai Kasambhai Kalaria
17. Dr. Bhai Mahavir
18. Shri Hamid Ali Schamnad
19. Shri Yogendra Sharma
20. Shri Ranbir Singh
21. Shri Sitaram Singh
22. Shri Sikander Ali Wajd

LEGISLATIVE COUNSEL

Shri R. V. S. Peri-Sastri—*Joint Secretary and Legislative Counsel.*

REPRESENTATIVES OF THE MINISTRY OF HOME AFFAIRS

1. Shri S. Balakrishnan—*Joint Secretary.*
2. Shri B. R. Patel—*Joint Secretary.*

3. Shrimati P. Ramachandran—*Director*.
4. Shri S. D. Srivastava—*Under Secretary*.

SECRETARIAT

Shri H. G. Paranjpe—*Deputy Secretary*.

2. Shri Ram Niwas Mirdha, Minister of State in the Ministry of Home Affairs, who is not a member of the Committee, attended the sitting with the permission of the Chairman under Rule 299 of the Rules of Procedure and Conduct of Business in Lok Sabha.

3. The Committee resumed further clause-by-clause consideration of the Bill.

4. *Clause 3*—[*vide* paragraph 4 of the Minutes dated the 8th April, 1974].—The discussion on this clause was not concluded.

5. The Committee decided to sit from 09.30 to 11.00 hours on Wednesday, the 10th April, 1974 to take up further clause-by-clause consideration of the Bill.

6. The Committee then adjourned.

XVIII

Eighteenth Sitting

The Committee sat on Wednesday, the 10th April, 1974 from 09.30 to 10.50 hours.

PRESENT

Shri L. D. Kotoki—*Chairman*

MEMBERS

Lok Sabha

2. Shri Madhu Dandavate
3. Shri C. D. Gautam
4. Shri Dinesh Chander Goswami
5. Dr. Kailas
6. Shri Purushottam Kakodkar
7. Shrimati T. Lakshmikanthamma
8. Shri F. H. Mohsin
9. Shri Sarjoo Pandey
10. Shri Ebrahim Sulaiman Sait
11. Shri Nawal Kishore Sharma
12. Shri B. R. Shukla
13. Shri N. Tombi Singh

Rajya Sabha

14. Shri Nabin Chandra Buragohain
15. Shrimati Jahanara Jaipal Singh
16. Shri Ibrahimhai Kasambhai Kalaria

17. Shri Hamid Ali Schamnad
18. Shri Yogendra Sharma
19. Shri Ranbir Singh
20. Shri Sikander Ali Wajd

LEGISLATIVE COUNSEL

Shri R. V. S. Peri-Sastri—*Joint Secretary and Legislative Counsel.*

REPRESENTATIVES OF THE MINISTRY OF HOME AFFAIRS

1. Shri S. Balakrishnan—*Joint Secretary.*
2. Shri B. R. Patel—*Joint Secretary.*
3. Shrimati P. Ramachandran—*Director.*
4. Shri S. D. Srivastava—*Under Secretary.*

SECRETARIAT

Shri H. G. Paranjpe—*Deputy Secretary.*

2. Shri Ram Niwas Mirdha, Minister of State in the Ministry of Home Affairs, who is not a member of the Committee, attended the sitting with the permission of the Chairman under Rule 299 of the Rules of Procedure and Conduct of Business in Lok Sabha.

3. The Committee took up further clause-by-clause consideration of the Bill.

4. *Clause 3*—[vide paragraph 4 of the Minutes dated the 9th April 1974].—The Committee resumed discussion on this clause.

I. The following amendments were accepted:—

(i) Page 2, line 8,
omit “deemed to be” and “for the purposes of this Act”

(ii) Page 2, for lines 9 to 12, substitute—

“(2) A notification issued under sub-section (1) in respect of any area shall specify the period during which the area shall be a disturbed area for the purposes of this section and where the State Government is satisfied that there was such disturbance of the public peace as is referred to in sub-section (1) in that area from any Date prior to the issue of such notification, the period specified in the notification may commence from that date.”

(iii) Page 2, lines 15 and 16,

for “may, be a like notification, be extended”

substitute “the State Government may amend such notification to extend such period”

(iv) Page 2, after line 19, insert

“Provided further that where the State Government is satisfied that there is no longer such disturbance of the public peace as is referred to in sub-section (1) in such area, it shall amend the notification issued under that sub-section in respect of that area to limit the period specified therein (whether originally or by amendment under the preceding proviso) accordingly.”

II. The following amendment was accepted subject to drafting changes:—

Page 2,

for lines 13-14, substitute—

“Provided that—

- (a) no period commencing from a date earlier than three months before the date of publication of the notification shall be specified therein; and
- (b) so much of the period specified in such notification as is subsequent to the date of publication of the”.

III. The notices of amendments which were considered and not accepted by the Committee are given in the Annexure.

The clause, as amended, was adopted.

5. *Clause 4.*—The following amendment was accepted subject to drafting and consequential changes:—

Page 2, line 21,

after “areas” insert—

“arising out of extensive disturbances of the public peace and tranquility referred to in sub-clause (1) of Clause 3 above,”

Further consideration of the clause was held over.

6. The Committee then decided to sit from 09.00 to 11.00 hours on Thursday, the 11th April, 1974 to take up further clause-by-clause consideration of the Bill.

7. The Committee then adjourned.

ANNEXURE

*List of notices of amendments considered and not accepted at the sitting
of the Joint Committee held on the 10th April, 1974*

S. No.	Name of Member and text of amendment
--------	--------------------------------------

(1)

(2)

CLAUSE 3

***SHRI ATAL BIHARI VAJPAYEE**

DR. BHAI MAHAVIR

SHRI MUKHTIAR SINGH MALIK

1. Page 2, line 1,

after "Government" insert

"in consultation with the High Court"

SHRI B. R. SHUKLA

2. Page 2, line 1,

after "Government"

insert "or the Central Government"

SHRI M. C. DAGA

3. Page 2, line 1,

after "is" insert "reasonably"

SHRI M. C. DAGA

DR. BHAI MAHAVIR

SHRI MUKHTIAR SINGH MALIK

4. Page 2,

omit line 2

SHRI M. C. DAGA

5. Page 2, for line 2 substitute

"(i) within one month, there was, or"

SHRI B. R. SHUKLA

6. Page 2, lines 5—7,

*omit "by reason of differences or disputes between members of
different religions, racial, language or regional groups or castes
or communities."*

*Stands referred to the Joint Committee under Rule 301 of the Rules of Procedure.

(1)

(2)

SHRI DINESH CHANDER GOSWAMI
 DR. BHAI MAHAVIR
 SHRI MUKHTIAR SINGH MALIK

7. Page 2, line 5,
 omit "differences or"

SHRI BIREN DUTTA

8. Page 2, line 5,
 for "difference or disputes"
 substitute "communal clashes"

SHRI DINESH CHANDER GOSWAMI

9. Page 2, line 6,
 omit "language or regional"

SHRI BALAKRISHNA VENKANNA NAIK

- *10. Page 2, line 6,
 omit "language"

SHRI YOGENDRA SHARMA

SHRI SARJOO PANDEY

11. Page 2, line 6,
 omit "racial" language or regional groups or castes or"

SHRI BIREN DUTTA

12. Page 2, lines 6 and 7,
 omit "racial, language or regional groups or castes or communities,"

SHRI H. M. PATEL

13. Page 2,—
 after line 8, *add*
 "Provided that such notification shall be issued not later than
 one month of the occurrence of the extensive disturbance
 in question."

SHRI BIREN DUTTA

14. Page 2,
 after line 8, *add*
 "Provided that such notification shall be issued within 15 days
 of the occurrence of the extensive disturbance in question."

*Stands referred to the Joint Committee under Rule 301 of the Rules of Procedure.

(1)

(2)

DR. BHAI MAHAVIR
SHRI MUKHTIAR SINGH MALIK

15. Page 2,

after line 8, add

"Provided that such notification shall be issued immediately after the occurrence of the extensive disturbances."

SHRI MAHENDRA MOHAN CHOUDHURY

16. Page 2, line 9,

after "notification" insert

"by stating reasons thereto"

SHRI YOGENDRA SHARMA

SHRI SARJOO PANDEY

17. Page 2, lines 16 and 17,

for "from time to time by any period not exceeding three months at any one time"

substitute "another period not exceeding three months"

SHRI PRASANNBHAI MEHTA

*18. Page 2,

after line 19, insert

"(3) The State shall forward the notification issued under subsection (1) within seven days of the date of the issue to the Union Government.

(4) The Union Government shall seek the approval of the Parliament immediately."

SHRI ATAL BIHARI VAJPAYEE

*19. Page 2,

after line 19, insert

"Provided further that the State Government will not exceed the period more than six months unless the High Court is satisfied that such an extension is necessary.

Provided further that the State Government shall not exceed the period more than twelve months."

SHRI YOGENDRA SHARMA

SHRI HARJOO PANDEY

20. Page 2,

after line 19, add

"Provided further that all such notifications shall be placed before the legislature of the State concerned at the earliest

*Stands referred to the Joint Committee under Rule 301 of the Rules of Procedure.

(1)

(2)

opportunity and that all such notifications shall stand cancelled unless the State Legislature concerned by a resolution approves them within two weeks of their presentation to it."

SHRI H. M. PATEL

21. Page 2,

after line 19, add

"Provided also that no extension shall be given at the end of three months same in consultation with the State Legislature if the State Legislature is in Session."

SHRI BIREN DUTTA

22. Page 2,

after line 19, add

"Provided that no extension shall be given without the consent of the State Legislature."

DR. BHAI MAHAVIR

SHRI MUKHTIAR SINGH MALIK

23. Page 2,

after line 19, add—

"(3) The State Government shall forward the notification to the Central Government immediately for seeking the approval of Parliament.

Provided further that the State Government shall not exceed the period for more than six months unless approved by the High Court and the State Government shall in no case exceed the period for more than twelve months."

XIX

Nineteenth Sitting

The Committee sat on Thursday, the 11th April, 1974 from 09.00 to 10.15 hours.

PRESENT

Shri L. D. Kotoki—*Chairman*

MEMBERS

Lok Sabha

2. Shri M. C. Daga
3. Shri Madhu Dandavate
4. Shri Tulsidas Dasappa
5. Shri C. D. Gautam
6. Shri Dinesh Chander Goswami
7. Dr. Kailas
8. Shri Purushottam Kakodkar
9. Shrimati T. Lakshmikanthamma
10. Shri Prasannbhai Mehta
11. Shri Sarjoo Pandey

Rajya Sabha

12. Shri Nabin Chandra Buragohain
13. Shri Ibrahimbhai Kasambhai Kalaria
14. Dr. Bhai Mahavir
15. Shri Hamid Ali Schamnad
16. Shri Ranbir Singh
17. Shri Sikander Ali Wajd

LEGISLATIVE COUNSEL

Shri R. V. S. Peri-Sastri—*Joint Secretary and Legislative Counsel.*

REPRESENTATIVES OF THE MINISTRY OF HOME AFFAIRS

1. Shri S. Balakrishnan—*Joint Secretary.*
2. Shrimati P. Ramachandran—*Director.*
3. Shri S. D. Srivastava—*Under Secretary.*

SECRETARIAT

Shri H. G. Paranjpe—*Deputy Secretary.*

2. Shri Ram Niwas Mirdha, Minister of State in the Ministry of Home Affairs, who is not a member of the Committee, attended the sitting with

the permission of the Chairman under Rule 299 of the Rules of Procedure and Conduct of Business in Lok Sabha.

3. The Committee resumed further clause-by-clause consideration of the Bill.

4. *Clause 4* [*vide* paragraph 5 of the minutes dated the 10th April, 1974].—

I. The following further amendments were accepted:—

(i) Page 2,

for line 26, substitute—

“appointed by the High Court upon a request made by the State Government.

Explanation.—In this section, the word appoint shall have the meaning given to it in the Explanation to Section 9 of the Code.”

(ii) Page 2, omit lines 33-34.

II. The following amendment was accepted subject to drafting changes:—

Page 2, for lines 29 to 32, *substitute—*

“he is, or has been, or is qualified for appointment as Sessions Judge or an Additional Sessions Judge.”

III. The notices of amendments which were considered and not accepted by the Committee are given in the Annexure.

The clause, as amended, was adopted.

5. *Clause 5.*—

I. The following amendment was accepted:—

Page 2, lines 37, 38 and 39,

for “the period specified in the notification issued under section 3 in respect of such area or during that period as extended under the proviso to sub-section (2) of that section”

substitute “the period during which it is a disturbed area”

II. The following amendments were accepted subject to drafting changes:—

(i) Page 2, line 36,

after “offence” *insert—*

“forming part or arising out or otherwise connected with such disturbance as is referred to in section 3,”

(ii) Page 2, line 39,

after “be”

insert “cognisable and”

III. The notices of amendments which were considered and not accepted by the Committee are given in the Annexure.

The clause, as amended, was adopted.

6. *New clause 5A.*—The notice of amendment given in the Annexure for insertion of a new clause was considered and not accepted by the Committee.

7. *Clause 6.*—

I. The following amendments were accepted:—

(i) Page 3, for lines 1 to 14, *substitute*

“Procedure and powers of Special Courts.

6. (1) A Special Court may take cognizance of any Scheduled offence,—

(a) Where under the Code such offence is an offence triable exclusively by a Court of Session, upon its being committed to it under section 209 of the Code as if the Special Court were a Court of Session;

(b) in any other case, upon a police report of the facts together with a certificate from the public prosecutor to the effect that the offence is triable exclusively by the Special Court.

(2) Where a scheduled offence is an offence triable exclusively by a Court of Session under the Code, a Special Court shall have all the powers of a Court of Session and shall try such offence as if it were a Court of Session, so far as may be in accordance with the procedure prescribed in the Code for trial before a Court of Session as if the Special Court is a Court of Session.

(3) Where a scheduled offence is an offence which is punishable with imprisonment for a term exceeding three years but which, according to the provisions of the Code, is not an offence triable exclusively by a Court of Session, a special Court may on taking cognizance of the offence perform the functions of a Magistrate under section 207 of the Code and thereafter try such offence so far as may be in accordance with the procedure prescribed in the Code for trial before a Court of Session as if the Special Court is a Court of Session and the case had been committed to it for trial under the provisions of the Code.

(4) Where a scheduled offence is punishable with imprisonment for a term not exceeding three years or with fine or with both, a Special Court may, notwithstanding anything contained in section 260 or section 262 of the Code, try the offence in a summary way in accordance with the procedure prescribed in the Code and the provisions of sections 263 to 265 of the Code, so far as may be, apply to such trial.”

(ii) Page 3, line 18,

for “(4)”, *substitute* “(5)”.

(iii) Page 3, line 24,

for “sections 339 and 339A”
substitute “section 308”

(iv) Page 3, line 25,

for “338” *substitute* “307”

II. The following amendment was accepted subject to drafting changes:—

Page 3, for lines 15 to 17, *substitute*—

“Provided that wherein course of a summary trial it appears to the Special Court that the case is one which is of a character which renders it undesirable that it should be tried summarily, the Court shall recall any witness which may have been examined and proceed to hear the case in accordance with the procedure prescribed in the Code for trial of summons cases.”

III. The notices of amendments which were considered and not accepted by the Committee are given in the Annexure.

The clause, as amended, was adopted.

8. *Clause 7.*—

I. The following amendment was accepted:—

Page 3, for line 31, *substitute*

“having jurisdiction under the Code and the court to which the case is transferred may proceed with the case as if it had taken cognizance of the offence”.

II. The notice of amendment which was considered and not accepted by the Committee is given in the Annexure.

The clause, as amended, was adopted.

9. *New clause 7A.*—The notice of amendment for insertion of a new clause was considered and not accepted by the Committee is given in the Annexure.

10. *Clause 8.*—The following amendment was accepted:—

Page 3, for lines 32 to 36, *substitute*

“Appeal and Revision. 8. The High Court may exercise, so far as they may be applicable, all the powers conferred by Chapters XXIX and XXX of the Code on a High Court, as if a Special Court is a Court of Session trying cases within the local limits of the jurisdiction of the High Court”.

The Clause, as amended, was adopted.

11. *Clause 9.*—

I. The following amendments were accepted:—

(i) Page 3, line 43,
omit “trying cases without jury”.

(ii) Page 3, lines 46 and 47,
for “sections 350 and 549”
substitute “sections 326 and 475”

II. The notice of amendment which was considered and not accepted by the Committee is given in the Annexure.

The clause, as amended, was adopted.

12. *Clause 10.*—The clause was adopted without any amendment.

13. *The Schedule.*—The notices of amendments which were considered and not accepted by the Committee are given in the Annexure. The Schedule was adopted without any amendment.

14. *Clause 1.*—The following amendment was accepted:—

Page 1, line 4,

for "1972" substitute "1974"

The clause, as amended, was adopted.

15. *Enacting Formula.*—The following amendment was accepted:—

Page 1, line 1, for "Twentythird"

substitute "Twenty-fifth"

The Enacting Formula, as amended, was adopted.

16. *Long Title.*—The Long Title was adopted without any amendment.

17. The Committee authorised the Legislative Counsel to correct patent errors and carry out amendments of drafting or consequential nature in the Bill, if any.

18. The Committee decided that two copies each of—

(i) Evidence tendered before the Committee; and

(ii) Memoranda received by the Committee from various associations, organisations, etc.

might be placed in the Parliament Library, after the Report had been presented, for reference by the Members of Parliament.

19. The Chairman then drew the attention of the Members of the Committee to the provisions of Direction 87 of the Directions by the Speaker relating to Minutes of Dissent.

20. The Committee decided to sit on Thursday, the 25th April, 1974 at 09.30 hours for consideration and adoption of their draft Report.

21. The Committee then adjourned.

ANNEXURE

List of notices of amendments considered and not accepted at the sitting of the Joint Committee held on the 11th April, 1974.

S.No.	Name of Member and text of amendment
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(1)	(2)
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CLAUSE 4

*SHRI ATAL BIHARI VAJPAYEE
DR. BHAI MAHAVIR
SHRI MUKHTIAR SINGH MALIK

1. Page 2, line 26,
for "in consultation with"
substitute "with the concurrence of"
2. Page 2, line 29,
omit "or is qualified for appointment as,"
SHRI BIREN DUTTA
SHRI M. C. DAGA
3. Page 2,
for lines 29 to 32,
substitute "he is, or has been, or is qualified for appointment
as Session Judge."
SHRI M. C. DAGA
4. Page 2, line 31,
for "one year,"
substitute "five years,"
SHRI DINESH CHANDER GOSWAMI
- *5. Page 2, line 32,
for "Sessions Judge or an Additional Sessions Judge"
substitute "District Judge or an Additional District Judge ap-
pointed in order of seniority"
SHRI B. R. SHUKLA
6. Page 2, after line 32—
add "or has been a Judicial Magistrate of First Class for not
less than six years."

*Stands referred to the Joint Committee under Rule 301 of the Rules of Procedure.

(1)

(2)

SHRI M. C. DAGA

7. Page 2, after line 32, add

"(c) He is leading advocate of High Court having experience of 5 years."

SHRI H. M. PATEL

8. Page 2,

after line 34, add—

"(5) The State Government should also indicate in the notification the period for which such Special Courts are being constituted.

Provided however, that the State Government shall have the power to extend the life of the Special Court or Courts beyond the period fixed for good and sufficient reasons but in no case shall the period of extension exceed six months."

SHRI BIREN DUTTA

9. Page 2,

after line 34, add—

"(5) The State Government should mention in the notification the period for which such Special Courts are being constituted."

DR. BHAI MAHAVIR

SHRI MUKHTIAR SINGH MALIK

10. Page 2,

after line 34, add—

"(5) The State Government shall specify the period for which these special courts shall be constituted, provided that the period in no case shall extend to more than a year."

CLAUSE 5

SHRI INDRAJIT GUPTA

- *11. Page 2,

omit lines 42 to 45.

DR. BHAI MAHAVIR

SHRI MUKHTIAR SINGH MALIK

12. Page 2, line 45,

after "offence" add—

"arising out of or otherwise connected with such disturbance as referred to in Section 3."

(1)

(2)

NEW CLAUSE 5A

SHRI B. R. SHUKLA

13. Page 2, after line 45,

add the following as new clause—

“(5A) No special court shall take cognizance of any schedule offence or offences connected therewith except on a Police Report.”

CLAUSE 6

SHRI M. C. DAGA

14. Page 3, line 1, after “cognizance”

insert “only on the police report”

15. Page 3, line 1,

*after “offence” insert—**“only on the police report”*

SHRI DINESH CHANDER GOSWAMI

*16. Page 3, line 4,

for “may” substitute “shall”

SHRI B. R. SHUKLA

*17. Page 3, line 5,

*after “cases” insert—**“instituted on police report”*

SHRI DINESH CHANDER GOSWAMI

*18. Page 3, line 6,

for “may” substitute “shall”

SHRI ATAL BIHARI VAJPAYEE

*19. Page 3, line 11,

omit “in a summary way”

SHRI DINESH CHANDER GOSWAMI

*20. Page 3, line 13,

for “to 265” substitute “and 264”

SHRI ATAL BIHARI VAJPAYEE

*21. Page 3, line 15,

omit “summary”

SHRI DINESH CHANDER GOSWAMI

22. Page 3, after line 17, add

“(3A) That in case of any conviction in a trial under sub-section (3) it shall be lawful for the court to impose any

*Stands referred to the joint Committee under Rule 301 of the Rules of Procedure.

(1)

(2)

sentence authorised by law for punishment of such offence but in case of summary trial the period of imprisonment shall not exceed two years."

SHRI B. R. SHUKLA

SHRI M. C. DAGA

23. Page 3, line 18,

for "Special Court" substitute

"District Magistrate or Chief Presidency Magistrate"

CLAUSE 7

SHRI DINESH CHANDER GOSWAMY

24. Page 3, for lines 26 to 31, substitute—

"7. If after taking cognizance of an offence a Special Court is of the opinion that the offence is not a 'scheduled offence' it shall transfer the case for trial to any court having jurisdiction under the Code and thereupon, notwithstanding anything contained in sub-section (1) of Section 5 the Special Court will cease to have jurisdiction in the case."

NEW CLAUSE 7A

SHRI B. R. SHUKLA

*25. Page 3,—

after line 31, insert

"7A. The Court to which a case is transferred under section 7, shall start an enquiry or trial *de novo*, in accordance with the provisions of the Code."

CLAUSE 9

SHRI B. R. SHUKLA

*26. Page 3,—

for line 48, substitute—

"Judge of a Special Court, and for the purposes of the said provisions a Judge of a Special Court"

SCHEDULE

SHRI DINESH CHANDER GOSWAMI

SHRI M. C. DAGA

27. Page 4, line 10, after "Indian Panel Code"

insert—"if committed by reason of difference or disputes between members of different religions, racial language or regional groups or caste or communities".

28. Page 4, line 16, omit—

"302, 303, 304".

Twentieth Sitting

The Committee sat on Thursday, the 25th April, 1974 from 09.30 to 10.30 hours.

PRESENT

Shri L. D. Kotoki—*Chairman*.

MEMBERS

Lok Sabha

2. Shri Madhu Dandavate
3. Shri Tulsidas Dasappa
4. Shri Biren Dutta
5. Shri C. D. Gautam
6. Dr. Kailas
7. Shri Purushottam Kakodkar
8. Shri Prasannbhai Mehta
9. Shri F. H. Mohsin
10. Shri Balakrishna Venkanna Naik
11. Shri Sarjoo Pandey
12. Shri Nawal Kishore Sharma
13. Shri N. Tombi Singh.

Rajya Sabha

14. Shri Ranbir Singh
15. Shri Sikander Ali Wajid.

LEGISLATIVE COUNSEL

Shri R. V. S. Peri-Sastri—*Joint Secretary and Legislative Counsel*.

REPRESENTATIVES OF THE MINISTRY OF HOME AFFAIRS

1. Shri B. R. Patel—*Joint Secretary*.
2. Shrimati P. Ramachandran—*Director*.
3. Shri S. D. Srivastava—*Under Secretary*.

SECRETARIAT

Shri H. G. Paranjpe—*Deputy Secretary*.

2. The Committee considered and adopted the Bill with the following modifications.

3. The Committee reconsidered the amendment to clause 4 set out in paragraph 5 of the minutes dated the 10th April, 1974 and the amendment to clause 5 set out in paragraph 5 II(i) of the minutes dated the

11th April, 1974. The Committee decided that as the object of these amendments is to ensure that Special Courts have jurisdiction only in respect of those offences specified in the Schedule to the Bill which form part or arise out of or are connected with disturbances of the nature referred to in clause 3, to avoid repetition it would be better to give effect to the object by amending the definition of "scheduled offence" in clause 2(b) of the Bill suitably, Clause 2(d) has been amended accordingly.

4. The Committee reconsidered the amendment to clause 4 set out in paragraph 4 II of the minutes dated the 11th April, 1974. The Committee decided that while sitting or retired judges of High Courts may not be appointed as Special Judges, persons qualified for appointment as Judges of High Courts should be eligible for being appointed as Special Judges to meet contingencies in which adequate number of sitting, Sessions or Additional Sessions Judges are not available. The Committee also decided that it should be provided that a person shall not be eligible for being appointed as or for being a Judge of a Special Court in any State after he has attained the age at which Sessions Judges in that State retire from service. For this purpose, the Committee approved the following draft:—

for clause 4(3), substitute—

"(3) A person shall not be qualified for appointment as a judge of a Special Court unless—

(a) he is qualified for appointment as a judge of a High Court, or

(b) he has, for a period of not less than one year, been a Sessions Judge or an Additional Sessions Judge.

(3A) Notwithstanding anything contained in sub-section (3), a person shall not be eligible for being appointed as, and for being, a Judge of a Special Court in any State after he has attained the age at which Sessions Judges in that State have to retire from service."

5. The Committee reconsidered the amendment set out in paragraph 5 II(ii) of the minutes dated the 11th April, 1974 and decided that the amendment may be given effect to by adding to clause 6 of the Bill a new sub-clause to the effect that every scheduled offence shall be cognizable.

6. The Committee reconsidered sub-clause (2) of clause 6 of the Bill as given in Paragraph 7 I(i) of the minutes dated the 11th April, 1974 and decided that the words "as if the Special Court is a Court of Sessions" may be omitted as being unnecessary.

7. The Committee felt that clause 7 might be suitably modified to make it consistent with the amendment made in clause 2(d) of the Bill. Accordingly, the following redraft of clause 7 was accepted by the Committee:—

**Power
to transfer
cases to
regular
courts.**

7. Where, after taking cognizance of any offence, a Special Court is of opinion that the offence is not a schedule offence, it shall, notwithstanding that it has no jurisdiction to try the case, transfer the case for trial to any court having the jurisdiction

under the Code and the court to which the case is transferred may proceed with the case as if it had taken cognizance of the offence.”.

8. The Committee then considered and adopted the draft Report.

9. The Chairman announced that the Minutes of Dissent, if any, might be sent to the Lok Sabha Secretariat so as to reach them by 12.00 hours on Monday, the 29th April, 1974.

10. The Committee authorised the Chairman and, in his absence, Shri Nawal Kishore Sharma to present the Report on the Table of the House on Tuesday, the 30th April, 1974.

11. The Committee also authorised Shri Sikander Ali Wajd and, in his absence, Shri Nabin Chandra Buragohain to lay the Report on the Table of Rajya Sabha on the 30th April, 1974.

12. The Committee placed on record their appreciation for the assistance rendered by the Minister of State in the Ministry of Home Affairs (Shri Ram Niwas Mirdha) and the Deputy Home Minister (Shri F. H. Mohsin) during the course of their deliberations.

13. The Committee also placed on record their appreciation for the cooperation and assistance rendered by the Legislative Counsel and the officers of the Ministry of Home Affairs and the officers and staff of the Lok Sabha Secretariat.

14. The Committee also placed on record their thanks to the Chairman for ably conducting the proceedings of the Committee and guiding their deliberations at various stages of the Bill.

15. The Committee then adjourned.
