

10.20 hrs.

DISTURBED AREAS (SPECIAL COURTS) BILL,

MR. DEPUTY SPEAKER: We now take up the Disturbed Areas (Special Courts) Bill.

Mr. Mohsin,

THE DEPUTY MINISTER IN THE MINISTRY OF HOME AFFAIRS (SHRI P. H. MOHSIN): I beg to move.

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

The Disturbed Areas (Special Courts) Bill was introduced in pursuance of a recommendation made by the National Integration Council in 1968. There are considerable delays in the disposal of criminal cases arising out of communal and other disturbances. Therefore, the State Governments were consulted in the matter and the Central Government decided to bring forward this legislation.

One of the main features of this legislation is that it provides for speedier disposal of cases arising out of specified types of disturbances.

While moving this Bill, it is my pleasant duty and privilege to say a word about the deliberations of the Joint Committee of the two Houses. The Joint Committee, while considering the original Bill, has made valuable suggestions and contributions. I take this opportunity of paying my humble tributes to the Chairman and all the members of the Joint Committee for their valuable contribution. I would also like to thank the officers who assisted in the work of the Joint Committee.

Before recommending the Bill in its present form, the Joint Committee has taken into account the relevant pro-

visions of the Code of Criminal Procedure, 1973.

The Government hope that this legislation will enable an expeditious trial and disposal of cases which fall within its purview.

I, therefore, take this opportunity of commending this Bill to the House.

MR. DEPUTY-SPEAKER: Motion moved:

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

SHRI DINESH JOARDER (Malda): I rise to oppose this Bill on certain points that I would like to express here. It is true that our hon. Deputy Minister, Mr. Mohsin, has stated that the Bill is the outcome of certain recommendations of the National Integration Council.

16.20 hrs.

[SHRI ISHAQUE SAMBHALI in the Chair]

That was there and the recommendation was to curb the communal disturbances and also for a speedy disposal of the cases concerning offences in connection with such communal disturbances, certain measures should be taken and especially, special courts established for disposal of such criminal cases. That is one such measure. Actually, what was the recommendation of the National Integration Council? It was only regarding the communal disturbances. But, here, in the Bill, the Government has included such other matters which will have certain greater implications and serious consequences in our national life, political life as well as social and cultural life. Here, I have a copy of the recommendation of the National Integration Council where it is stated that for taking certain punitive

[Shri Dinesh Joarder]

measures, the offences should be investigated and the offenders prosecuted promptly.

There is no dispute in this recommendation. A prosecution once launched should not be withdrawn. Special courts with summary trial powers to deal with the offences connected with the communal incidents should be constituted.

Here the matters connected with the communal incidents, offences and activities have been defined. Section 153A of the Indian Penal Code should be amended to provide for the punishment for communal activities which term should be defined to mean—

'Any activity which promotes or attempts to promote on the grounds of religion, race, caste or community or any other ground whatsoever, feelings of enmity or hatred between different ...'

Here it is more or less specific in regard to the dispute between two groups of different religions, races, castes and communities. But in the Bill here the Government has taken the opportunity of this recommendation of the National Integration Council for fulfilling their calculated political purposes and to curb certain other popular demands of the people having national aspirations of a different region.

They have now brought a Bill incorporating such other matters which will have serious consequences. That is what I want to say. Here, in this Bill, in Clause 3 they have stated:

"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 tranquility, 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 that such area shall be deemed to be a disturbed area for the purposes of this Act."

Here, two new terms have been included i.e. language and regional groups. That means difference in any section of people in regard to their linguistic aspirations, will also be treated as a communal disturbance. In this Bill we are going to adopt regional demands as regional disturbances.

In the National Council's recommendations they have stated that such other disputes and disturbances in regard to the linguistic matters or regional matters should be treated in a different way, in a different manner and they have suggested certain precautionary and preventive steps which can be taken for tackling those disputes.

Linguistic border issues—We know even to-day in India there are certain disputes in regard to the languages. Very recently, we have seen the happenings in Assam, in Cachar and other places also. Our neighbourly brothers are also aspiring for inclusion of Nepalese language in the Schedule of the Constitution. They also demand that their language should be treated at par with our other languages. These linguistic demands and aspirations of culture, particularly of the Scheduled Castes and Scheduled Tribes, are still existing in our country. Those have not been fulfilled. Our States, our regions, our social structure have not so arranged that their cultural aspirations would be achieved in the present set up. That has not been done yet.

So there is every likelihood that the people may sometimes demand that their linguistic disputes should be removed and appropriate opportunities should be given for their cultural activities. There are disputes, inter-State river water disputes and so on. Certain disputes have been settled. Some other disputes still remain. These have to be treated in a different manner.

Subjects like regional and economic imbalances and employment opportunities to the local population have been dealt with by the National Integration Council.

There might be certain regional disturbances or disputes regarding regional and economic imbalances. There are some senas like the Shiv-sena. There are some brigades like the Nehru Brigade and Indira Brigade. Shiv-sena and other Senas are working in different parts of the country. Matters like Centre-State relations, autonomy of regions, etc. arise from time to time. These matters are there. Unless you tackle these matters in a different way, on a different footing, with different tolerance, caution and care, these problems cannot be settled, and cannot be rooted out. If you treat the communal disputes on the same footing as these disputes, then this view or this attitude of the Government may create serious consequences in our political, social and national life in future.

For these reasons I want to oppose the Bill. The Bill, as introduced, will equate communal disturbances with disturbances for linguistic demands, regional demands, for removal of regional imbalances, and for other popular demands. These have been tagged together and treated on an equal footing with communal disturbances.

There had also been another apprehension in the past and this is there at the present time also. Movement for land reforms creates certain

disputes. This may be turned into disputes between castes and communities. Sometimes this flares up as a communal dispute. I have some personal experience in my own district or my own constituency. After partition, some people from East Bengal, erstwhile East Pakistan, came with exchange of properties of some Muslim inhabitants in India, those who have already migrated to East Pakistan. Previously those lands were the lands where the tribal people, the Santhals and Adivasis were living. Subsequently, by forged documents or otherwise, these lands had been grabbed and taken away from them. The tribal people were deprived of these lands. Subsequently the refugees came and most of them were Namdharis and other people and now the Santhal people tried to exert their position over the land. So there was a commotion. The santhals everywhere and the tribal people in that region assembled together and for days together they propagated for their right for the possession of these lands. On the other hand, these Namdharis and scheduled caste people assembled on the other side. This incident took a serious turn. Certain houses were burnt. Certain people were killed. And this took a turn of communal riot between two communities, two groups. It took a turn like that.

How will you take this sort of a dispute? Are you going to look upon it as communal disturbance or dispute over land reforms or demand for legitimate lands on the part of the tribal people? The question is: How will you deal with this sort of communal disturbance or dispute?

So, in this way, we still find in different parts of the country for the land possession and for the land cultivation and for land reforms, the tribal people, the scheduled castes people and the scheduled tribes are being treated like anything by the caste Hindus or even by other communities,

[Shri Dinesh Joarder]

by other religious people. Over the land dispute. Their houses are burnt and the people are also burnt alive. These things are going on. How will you declare these disputes as communal disturbances? I find in this Bill that language and regional disputes who have been treated equally with communal disputes to which I have my objection. Also what sort of power has been given to the State Governments? It says:

'the State Government, by notification, may declare any area as a disturbed area giving retrospective effect even three months before and it may continue for three months'.

By three months—three or four consecutive periods—they can continue to declare them as disturbed areas. Even the political opponents in some areas where the ruling party cannot go, can take advantage of this provision at the level of the district authority. What is going on? Under the emergency, the powers are being misutilised by vested interests in connivance with the district authority. Similar things may happen here also. You have given the power to the police officers. What does clause (b) say:—

"(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".

So, with a certificate from a public prosecutor this can be tried by a special court because he is very much in the good books of the administration and also of the Police Administration. So, with the certificate from the Public Prosecutor and with a report from the police officer, the offence of that area can be triable by the special court. Again there is a conflicting provision in the Bill. I would

draw your attention to Clause 5(2). What does it say? It says:—

"(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".

But, in the subsequent clause, clause 7, it says:—

"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".

So, there are certain anomalies; excessive power is being given to the State Governments. I am opposed to the words 'communal disputes and communal riots, linguistic, regional and other class disputes' that have been incorporated in this Bill.

SHRI B. R. SHUKLA (Bhraich):
Mr. Chairman, Sir, I entirely support the provisions in the Bill. There is not an iota of material to justify the fear and the apprehension voiced by my friend, Shri Joarder who is labouring under a delusion that peaceful agitation is sought to be curbed in the guise of this provision in this Bill.

There is nothing like that. The riots on account of communal differences, on account of religious differences, caste and community differences, linguistic differences, cultural differences have marred the peace and tranquillity in this vast land.

There have been suggestions emanating from different sections of the people—irrespective of party affiliations—that such riots should be adequately, swiftly and effectively punished. The regular courts of the country are not adequate enough to cope with such abnormal situations.

Under the provisions of this Bill it has been provided that when the State Government is satisfied that there is disturbance of peace and tranquility on an extensive scale it may by notification declare the area concerned to be a disturbed area and the notification has also to provide from whence it will be applicable—the earlier date is three months prior to the date of notification and the posterior date is three months, which of course can be extended from time to time. Within this specified period if any offence which is included in the Schedule attached to this Bill is committed within this disturbed area then certain procedure is to be followed for the trial of the offenders. Therefore, if an offence which is not an offence within the meaning of the Schedule the provisions of this Bill will not be applicable. So, the area should be disturbed, the time should be specified and then the person concerned must be accused of having committed certain offences. Those offences form different categories of Indian Penal Code, namely, offence of murder, offence of looting property, offence of committing theft, intimidation or causing hurt. If these offences are related or arise out of or any disturbance based on caste, creed, religion or language, then they fall within the meaning of this Schedule. Because these offences are tried regularly there is a time consuming process and by the time the accused is punished ultimately by the highest court in the country the impact of the decision or of the punishment is lost. Therefore, a speedier method has been adopted, that is, there would be special courts. The special court will be presided by a judge who would be

qualified to be the judge of the High Court or who would be a person of the rank of Additional Sessions Judge with the experience of not less than one year.

Then I come to the point regarding mode of cognizance. Special court will be competent to take cognizance of an offence which is included in the Schedule only when the case is committed to his court and not otherwise. Then if the offence is not exclusively tried by a court of Sessions but it is of a minor nature then the cognizance of the offence can be taken by the special court only on a police report and that also with the consent of the Public Prosecutor.

Sir, this is more in the interests and benefit of the citizen because during riots so many unscrupulous people may file complaints. Therefore, if frivolous complaints are filed by the individuals and the cases come before the special courts then it will result in harassment. Therefore, it has been provided that cognizance of those cases which are not exclusively triable by a court of Sessions, can be taken only on a police report with the consent of the Public Prosecutor. If during the course of trial or after the cognizance has been taken the special court comes to the conclusion that the offence is not a schedule one and that it has nothing to do with the disturbances as contemplated under this Act, the court will transfer the case for trial to another court which is competent to try the case.

Therefore, my submission is that this Bill is wholly non-partisan in character. It is wholly innocuous and I would rather say that the Government has slept over the matter in not getting it passed earlier. It was necessary that it should have been passed within a few months after it was presented by the Select Committee to the House. But better late than never. I congratulate the Government for having introduced this Bill and for having brought it for consideration. In a vast country like ours, peace and tranquility have been

[Shri B. R. Shukla]

disturbed many a time against the will of the people, and they have marred our public life and they have spoiled the fair name and reputation of our country. These are very ugly riots and they should be curbed and controlled under an effective Act and the impact of the punishment must be felt by the people. This Bill was overdue and it was necessary that it should have been passed long ago.

श्री मून चन्द शर्मा : (पाली) :
सभा प्रति महोदय, राष्ट्रीय एकता समिति ने 1968 में जो निर्णय लिया था, उसके बारे में सरकार आठ साल के बाद यह बिल लाने का फैसला कर चुकी है। आठ साल के बाद भी यह बिल आ गया है, इस लिए मैं मंत्री महोदय को सुबारकबाद देता हूँ।

श्री मन्नालाल ने डा. मंत्री (श्री एक० एच० मोहसिन) : बिल 1972 में आ गया था।

श्री मून चन्द शर्मा : आज आठ साल के बाद हम उस बिल पर विचार कर रहे हैं।

हमारे देश में भिड़ती और कई अन्य स्थानों पर रायदास हुए हैं। यह देखा जाता है कि उन मुकदमों का निर्णय सालों तक नहीं होता है। इस लिए यह प्रावधान किया गया है कि कुछ स्पेशल कोर्ट्स बनाई जायें, ताकि वे केसिज जल्दी लय हो जायें और जो शक्तिशास्त्रात्मकता तथा संगठन भावनाओं को उभार कर देश में डिस्टर्बेन्सिज पैदा करना चाहती हैं, उनको एग्जेंपलरी पंक्तिमें दी जा सके।

इस बिल को भावना बहुत अच्छी है और मैं इस की तारीफ करता हूँ। मैं चाहता हूँ कि इस पर जल्दी से जल्दी चर्चा किया जाए। माननीय सदस्य, श्री बाबलकर, के क्षेत्र में भिड़ती में एक

बड़ा राफट हुआ था। लेकिन उन लोगों की जमातें हो जाती हैं और उनके मुकदमों को बरतते तक चले रहते हैं। जब स्पेशल कोर्ट्स मुकदमों को जमातें, तो वे बड़े बड़े ट्रायल होयें और इसलिए उन मुकदमों का फैसला जल्दी हो पाया।

मैं दो तीन बातों की तरफ मंत्री महोदय का ध्यान दिलाना चाहता हूँ। इसने कहा गया है :

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

अगर ट्रायल के दौरान स्पेशल कोर्ट यह समझे कि यह सीरियस केस है, यह ज्यादा सजा का मुकदमा है, तो वह केस सेवान्व कोर्ट में ट्रांसफर हो जाएगा। मेरा कहना है कि इन बारे में पूरी पावर्ज दी जाए। क्रिमिनल प्रोसिजर कोड में कुछ एमेंडमेंट्स हो गए हैं।

इसमें कहा गया है

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

पुलिस कामीजेंस लेनी है और चलाव करती है। सेक्शन 190 में या तो इन्वेस्टिगेशन के बाद रिपोर्ट प्रेषित की, और रिपोर्ट जाने के बाद अनेक मजिस्ट्रेट्स बिल प्रव्हाइडिड पाइंड। तो 156 के अन्तर्गत रिपोर्ट लाने की, उसके बाद इन्वेस्टिगेशन कम्प्लिट हो गया तो या तो

जो पुलिस थानेदार है जिसने बालान रखा है उसने बलती की है, आप ने यह लिखा है।

"unconnected with any such disturbance, it may transfer the case for trial to another court having jurisdiction under the code".

जब एक दफ्ता मुलायम का बालान हो गया, वह प्रवालत में आ गया, उसके बाद कोर्ट यह सोचती है कि इस मुकदमें का जो बालान हुआ यह यहाँ ठीक नहीं हुआ, इसको दूसरी कोर्ट में भेज दिया जाये, यह पावर कोर्ट को नहीं होनी चाहिए। या तो ऐम्बिटल हो जाय या कंविक्शन हो जाये..

एक माननीय सदस्य : प्राइममिनिस्टर एग्जिडेंट मिलेगा तो सेशन ट्रायल क्यों नहीं होगा ?

जी मूल बन्द बाया : वह तो बिल्कुल ठीक आप कह रहे हैं। अगर इसमें यह नहीं कहा है। इसमें कहा है कि जब बालान हो गया और बालान के बाद कोर्ट इस नतीजे पर पहुँचती है कि इसका प्रॉसेस इसमें नहीं आता है इसलिए इसको दूसरी जगह भेज दिया जाये यह ठीक नहीं है। मैं कहता हूँ इसमें यह जोता है कि कुछ पुलिस एजेंसीज पक्षपात करेंगी और पक्षपात के बाद उनको और समय मिल जाएगा। जो गुण्डा तत्व हैं, ब्रह्मामाजिक तत्व हैं, उनको उसी समय पकड़ कर बालान कर दिया जाये, इसका परपज तो यह था। बाकी यह बिल जल्दी लागू करना चाहिए।

तीसरी बात आपने कही है टाइम के सुबालिंक कि इस का कितना भीरिपड होगा। एक साल या कितने समय तक यह लागू रहेगा डिस्टर्ब एरिया में। एक

स्टेट में आप ने लागू कर दिया, फिर आपने कहा --

"exceed three months but may by a like notification be extended from time to time by any period not exceeding three months at one time, if in the opinion of the State Government, there continues to be in such area such disturbance...."

तो यह कितने समय तक रहेगा ? हाउ लाग बिल इट कान्टीन्यू ? ये मेरे सुझाव हैं। बाकी मैं इन बिल का समर्थन करता हूँ।

SHRIMATI PARVATHI KRISHNAN (Coimbatore): Sir, I welcome this Bill because we have seen many unfortunate incidents in various parts of the country over the past few years. The people who had been victims of racial, religious, caste or other prejudices had always felt that nothing sufficient is being done to deal with these anti-national forces... I remember the disturbances that were there in Bombay during the time when the Shiv Sena was on the rampage. Again, in my State we found the anti-Malayalee and anti-Telugu feeling being roused, shops being burnt, women and children being attacked and so on. All these things have been happening.

Under this Bill you are going to set up special courts to deal summarily with such offences, but this will apply only when the government declares it to be a disturbed area. I feel something more specific is necessary and I hope the government will give serious thought to it. This is part of the process of national integration. Merely setting up courts and the State Government, declaring places as disturbed areas over a period of time is not going to solve the problem. Only recently in the area you come from, Sir, there were certain unfortunate incidents. These seem to be repeating themselves in one area after another. In a village in Thanjavur District in

[Shrimati Parvathi Krishnan]

Tamil Nadu, a whole family of Harijans, men, women and children, were burnt because of the wrath of the landlord. That is not considered a disturbed area. Why not? Why should not such offences be tried in a summary manner by these special courts? Different types of incidents take place—in one case it is Hindu-Muslim, in another place it is against those who are not sons of the soil, in a third place it is the wrath of the caste Hindu landlords against agricultural labour, who are mainly Harijans and so on.

17.00 hrs.

Therefore, I hope, that the machinery which is being set up under this Bill, to deal with cases in disturbed areas, will also cover such cases as I mentioned just now.

At this moment, I would also like to take the opportunity of requesting the Minister that such communal organisations which create anti-national feeling and which are of communal and caste nature like Shiv Sena should be banned, because so long as such organised forces continue to exist legally in our country, there is every possibility of their disturbing peace in our country, and the possibility of achieving greater and greater national integration will definitely be delayed.

SHRI DHAMANKAR (Bhiwandi): I very vehemently support this Bill and congratulate the Minister for bringing forward this Bill before the House, though late. It should have come three years before. I come from an area which had communal riots on a very monstrous scale in 1970. I experienced those nightmares continuously for three years. Speeches were made at public places inciting the public to burn down police posts and all that, but nothing was done by Government to control that situation. Whenever I approached the district authorities, I had been told that reports had been made, CID had noted

down the speeches and that in due course, action would be taken. For three years, preparations for Bhiwandi riots went on un-hindered. If the Government could have taken stern action against those elements who were creating these riots and inciting the people to do that, we would not have witnessed that gruesome riot in Bhiwandi after three years.

On 7th May, a procession started and passed through some Muslim mohallas. Suddenly, some miscreants and goondas started pelting stones on the procession and immediately the entire town of Bhiwandi was on fire. The human beings had become monsters. I had seen with my own eyes a person throwing petrol on another person and a third person igniting it. The person was burning and he was crying loud but nobody came forward to save him. For three days, the whole town remained burning.

When I came to this House in 1971, this Bill was brought forward and a motion was put forward to refer the same to a Joint Committee. At that time, I requested that I might be included on this Committee so that I could narrate my experiences but unfortunately, I was not taken on that. I am happy that after six years, this Bill has come before this House. I hope, it will be of great help in curbing the riots. At least, the goonda elements will be tried and given deterrent punishment expeditiously. But it is not the goondas that create riots, it is the intelligentsia—communal minded intelligentsia both Muslims and Hindus—which foments these riots and incite the people.

What happens? After the riots, these people, who incite riots, enjoy life, sitting in the arm-chairs in their homes. Who are arrested? The riff-raffs are arrested; and the poor people who have to earn their livelihood, are arrested. When they go out on the roads, on the way to their factories, during curfew, they are arrested and put into prisons. Trials in regard to

the Bhiwandi riot cases are still continuing. The last case was disposed of only 3 months back. They are diluted. There is no fear in the minds of the people that if they kill or loot during the riots, they will be dealt with sternly. After 3 or 4 years, all the cases are diluted. People feel that they can go on having communal propaganda, or communal-riot mindedness. This bill will go a long way in curbing these tendencies. It has come late; but better late than never. I congratulate the Deputy Home Minister for having brought in this bill.

I would request that some specified period must be stipulated, within which the special courts should decide cases. If the cases linger on, there may be some cases where the evidence may not be available. Some cases may be transferred. The evidence of the witnesses might be tampered with. The law-abiding citizens would feel that nothing was being done against those who had started these riots and burnt down the places.

It is not only the communal riots with which we should be concerned. We should also look into the Shiv Sena disturbances, disturbances against the Harijans and poor scheduled tribes and such other things. Organized sections of wealthy people set out to unish the poor Harijans and adivasis and to burn down their hutments. In such cases, the trials go on for months together and ultimately these big people are acquitted. If the area is declared as a disturbed one, it will create a fear in the minds of such people, especially when special courts are set up.

With these words, I would say that the bill will be very helpful in checking the riots. I very heartily congratulate the Minister concerned and support this bill.

SHRI B. V. NAIK (Kanara): I welcome this bill; and I thank the hon. Minister for thanking the Select Committee which had drafted this bill,

because I was also associated with that Committee.

The only thing which I feel like adding to the points which our friends have already made—which do not need any repetition—is whether, in bringing in this bill during this period of emergency when there is no more disturbance in the country, we are not acting like the man who was locking the stable after the horse had bolted. The purpose for which this bill had been thought of, principally, was to meet the communal disturbances. Our friend Mr. Dinesh Joarder had said that the legitimate representations of the people may be curbed. I entertain no fears on that account. Though it was meant for the purpose of curbing communal disturbances—which obviously is one of the ugliest facets of our public life—I do feel, as was substantiated by our friend Mr. Dhamankar, that disturbances took place even on issues concerning languages in various parts of the country. And they were caused by fanatical organizations like the Shiv Sena and their counterparts, even in Bangalore, like the Chaluvaligars led by Mr. Vathal Nagaraj—though in Bangalore it was not on the same scale as in Bombay, where there is a large section of minorities from various parts of the country.

They were no less negative in their impact on it. Some of the blood-curdling stories which we heard made us feel that the most deterrent punishment must be meted out to these outright goondas, hooligans and professional murderers in our society, who, at the right moment, took over in the garb of some political agitation. Therefore, if you want to deal with these instigators of violence, communal, linguistic or other racial nature or class nature and regional nature, such a sort of Bill was long overdue. But, unfortunately, this Bill is coming at a time when there are no disturbances, which is no guarantee that after the revocation of the emergency, there

[Shri B. V. Naik]

will not be a contingency where this Bill may be used.

• Will the hon. Minister, therefore, kindly tell me, besides putting MISA as a permanent statute on the statute book of this country, what other deeds, he wants to take? After all, I would be surprised, if there have been bullets used for maintaining peace and tranquillity in this country, after the emergency, except a few cases, which are too well-known to be recounted.

As far as the post-emergency period is concerned, I want to know whether this Bill alone will be sufficient to maintain peace and order in the disturbed area or you contemplate anything further. As I have already said, I have been associated with the rest of the details and the Minister is quite aware of them. We welcome it.

In view of the land reforms, I see no reason how to put it. In view of the land reform legislation and the upsurge of the masses who are until now landless or tenants, who are only the nominal owners or who have got only the nominal rights, there are certain areas, particularly in the thickly populated coastal paddy and such other tracks, of grievances of the people and the tough ones are using all sorts of methods which the local law and order machinery is not able to handle. At this point of view, I would only like to draw the attention of the hon. Minister, who also comes from the same State, to a telegram which I received yesterday. We are very proud about it, 154 cultivators were arrested while cultivating the land and they were released on bail in my presence. On the 17th of this month, another six people were arrested. They are our party people and they refused to go on bail. This is in order to implement the order of the Supreme Court of India presided over by the Chief Justice and assisted by Mr. Beg and Jaswant

Singh. This is because of the wooden-headedness of the local administration, law and order machinery, Magistracy and the police. They are trying to interpret the order correctly.

These are some of the things. All your good laws will be dashed to the wall in case you are not able to train a cadre of officials who are able to understand the changed situation in this country. Kindly, therefore, as a Home Minister, I hope, Mr. Mohsin will be able to apply his mind to this. It is known where it has happened. It has happened in the taluka of Kumta Gonka paddy area. The full details are known. Even the officials might have been known to him. I would request him to kindly look into it.

Strangely enough, the local feudal system is not affected by this law.

I would like to give a suggestion for action, through appropriate State Governments, that the entire Gokarna police station area should be declared as a disturbed area, not because of any regional or communal tension but because of plain goondaism. A poor local sub-inspector is unable to control the local goondas and thugs. Until and unless in the rural interior areas where the long arm of the law does not reach, these elements are dealt with firmly not only under this measure but also under Emergency, it will be very difficult for us to control the anti-social elements in the years to come. With these words, I support the Bill.

श्री हरी सिंह (खुर्जा) : माननीय सभापति जी, डिस्टर्ब्ड एरियाज (स्पेशल कोर्ट्स) बिल 1972 पर चर्चा चल रही है। इस बिल, का उद्देश्य और फलफल है कि कम्युनल रायट्स से पैदा होने वाले जो अपराध हैं जो कि सभाज में अशांति का एक बहुत बड़ा कारण बन जाते हैं, उनके मामले में जल्दी से न्याय करना। जैसा कि हमारे माननीय सदस्यों ने कहा कि इस फलफल को पूरा करने के लिए

बहुत बिल बहुत पहले था जाना चाहिए था। सन 1968 में नेशनल इंटिग्रेशन काउंसिल का ध्यान इस ओर गया था और उसने इन कोर्ट्स का सुझाव दिया था। लेकिन खेद है कि सरकार ने इस बिल को लाने में बहुत देरी कर दी। यह खुशी की बात है कि इस बिल को इस अवसर पर लाया गया है जबकि सारे देश में शांति है।

सभापति महोदय, आप जानते हैं कि हिन्दुस्तान का इतिहास रहा है कि यहाँ पर धर्म के नाम पर, छोटे बड़े के नाम पर, मजदूर और जमींदार के नाम पर, अक्सर और अन्याय, जुल्म और फिसाद होते रहे हैं। इतिहास इस बात का साक्षी है। आप यह भी जानते हैं कि कम्युनल टेशन साम्प्रदायिक भावनाएँ जब बढ़, जाती हैं, तो इनसे उत्पन्न होने वाले अपराधों की संख्या एक ही क्षण में इतनी तेजी से बढ़ती है कि इन अपराधों को सामान्य रूप से समाप्त नहीं किया जा सकता। साधारण तौर पर जो अपराध हुआ करते हैं उनका इफेक्ट सीमित हुआ करता है, इनका इमीडियेट असर कम होता है। लेकिन कम्युनल टेशन, छुआछूत, मजदूर राइट से जो स्थिति पैदा होती है, उसका इमीडियेट इफेक्ट होता है। सोसाइटी में ऐसे अपराधों से निवटने के लिए ऐसी व्यवस्था होनी चाहिए जिससे अपराधियों को जल्दी से जल्दी सजा दी जा सके। अगर इन अपराधियों को सजा देने में देर लगती है तो इसके अजाम खराब हो सकते हैं। हमारे देश की सोसायटी एक कम्यूनिक्स सोसाइटी है? हमारे देश में अनेक भाषाओं के बोलने वाले लोग हैं, हमारे यहाँ अनेक रीजस हैं, अनेक धर्मों के मानने वाले लोग हैं। किन्तु हमारे यहाँ कोर्ट्स ऐसे अपराधियों को जो कम्युनल टेशन या इसी प्रकार के अन्य झगड़ों के होते हैं, उन्हें जल्दी सजाएँ देकर

माभले जल्दी नहीं खत्म कर सकती है। इसका असर सोसायटी पर अच्छा नहीं पड़ता इन स्पेशल कोर्ट्स के बन जाने से, मैं महसूस करता हूँ कि हिन्दु-मुस्लिम फिसाद आदि ऐसी झगड़ों के जो अपराधी होंगे उन्हें कानून जल्दी सजा दे सकेगा। इस बिल का मकसद यही है कि ऐसे केसिज को जल्दी से जल्दी निबटाया जाय। मेरी समझ मे नहीं आता कि इसमें किसी को क्या एतराज है, क्या शिकायत है।

सभापति महोदय आप जानते हैं हमारे देश का बहुत बड़ा बोर्डर एरिया है जहाँ पर हमारी सीमाएँ कई दूसरे देशों से लगती हैं। हमारी यह खुशबिस्मती है कि आजकल हमारे अपने पड़ोसी देशों से अच्छे संबंध हैं। लेकिन ऐसा भी समय रहा जब दूसरे देश हमारे प्रतिक्रियावादी लोगों से, रिएक्शनरी लोगों से, पूंजीवादी लोगों से साठ गाँठ करके हमारे देश के अन्दर घुसपेठ करते रहे हैं। आप जानते हैं कि ऐसे लोगों के अपराधों से निबटने के लिए ये कोर्ट्स कितना महत्वपूर्ण काम करेगी। इसका अन्दाजा अभी नहीं लगाया जा सकता।

यह बिल बड़ा सामयिक है और बड़ा समयानुकूल है। यह आज हिन्दुस्तान की मांग है। आप तो जानते ही हैं कि हाई कोर्ट्स में आज कितनी भारी तादाद में मुकदमे पैडिंग हैं। दस दस साल से वे पैडिंग हैं। आपने अखबारों में पढ़ा होगा कि उत्तर प्रदेश की हाई कोर्ट में एक बीस साल पुराना केस अब खत्म हुआ है। हिन्दू मुसलमानों के फसादात, हरिजनों पर अत्याचारों के मुकदमे, इनको निपटाने में बहुत ज्यादा देर लग जाती थी। अगर इस तरह से देर लगती रही तो नेशनल इंटिग्रेशन की भावना नहीं आ सकती है, एकता की भावना पैदा नहीं हो सकती है, आतपात का भेद नहीं मिल सकता है। यह कानून अपराधियों को सजा देने वाला तो है ही लेकिन साथ साथ देश में एकता की भावना पैदा करने वाला भी है, एक

[श्री हरी सिंह]

असल का काम करने वाला भी है। इस लिए मैं इन कानून का मसौदा करता हूँ और प्रार्थना करता हूँ कि इसको पास कर दिया जाए।

श्री मुहम्मद अबीलुर्रहमान (किशनगंज) मोहतरम बेयरमैन साहब, मैं आपका शुक्र गुजार हूँ कि आपने मुझ मौका दिया है। मैं मोहसिन साहब का भी शुक्र गुजार हूँ कि उन्होंने एक नाजूक मौके पर ऐसा बिल यहां रखा है। इस तरह के बिल के लिए 1968 में नेशनल इंटिग्रेशन काउंसिल ने सिफारिश की थी। आज इसको लाया गया है देर आयद दुस्त आयद।

हिन्दुस्तान में मुश्किलें जातों और मजहबों के लोग रहते हैं। जब से मुल्क का बटवारा हुआ है उसके बाद से जितने भी फ़िरकावाराना फ़सादात हुए हैं उनमें जितना माली और जानी नुक़सान हुआ है, उसका अदाज़ा भ्राम लगाना चाहें तो बहुत मुशकिल से ही आप लगा सकेंगे। हर कोने में फ़िरकावाराना फ़सादात हुए हैं। बड़े जोर और के साथ ये हुए हैं। इनके पीछे कैसे लोगों का हाथ था यह भी किसी से छुपा हुआ नहीं है। मैं समझता हूँ कि यह बिल बहुत मुनासिब वक़्त पर लाया गया है।

इस बिल के एम्ब एड प्रावजेक्ट्स में आपने कहा है :

"There are considerable delays in the disposal of criminal cases arising out of communal disturbances."

यह बिल्कुल ठीक बात है। इससे कम्युनल राइट के केरिंस का डिसपोजल जल्दी हो जाया करेगा। मुझे याद है कि एक केस जो कम्युनल राइट्स का था और जो 1959 में धायर हुआ है उसका डिसपोजल होते होते 1962 हो गया और तब तक गवाहों में से

चार पांच मर भी चुके थे। यह जो देरी होती थी यह अब इस बिल के पास होने से नहीं हो सकेगी। पहले पुलिस इनवेस्टीगेशन, फ़िर चार्ज शीट, फ़िर लोअर कोर्ट और लोअर कोर्ट के बाद सेशन कोर्ट के सुपुर्व मामला करते थे। इस सब में बहुत ज्यादा देरी लग जाया करती थी, यह बहुत लांग—प्रासेस था। लोगों को इसफ़र नहीं मिल पाता था। इसके मानी होते में इन्फ़र का खन। इस तरह के बिल की देश को सबन जरूरत थी। इस वास्ते जो बिल लाया गया है इसकी मैं तारीफ़ करता हूँ।

संख्यान 3 में लिखा हुआ है।

"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 tranquility, be 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 that such area shall be deemed to be a disturbed area for the purposes of this Act."

आप देखें कि ईस्टर्न जोन कितना डिमंडर्ब एरिया रहा है और इसमें किस कद्र मुल्क की सालभियत को खतरा पैदा किया था? असम में लैंग्वेज के नाम पर कितना जानी और माली नुक़सान हुआ है। यह बात भी किसी से छुपी छिपी नहीं है। और आगे आप आए। बंगाल में पिछले चन्द सालों में कितने ही कम्युनल राइट्स हुए हैं। आगे बिहार में आए। वहां भी बहुत हुए हैं। मध्य प्रदेश में भी बहुत हुए गर्ज पूरे भारत में एक आंग सी लगती हुई चली गई थी। इनको रोकने का कोई प्रोरी इलाज नहीं किया जा सका। इस बिल की मैं समझता हूँ कि सबन जरूरत

थी। इससे इतनी सखी कारवाई का खालसा हो जाएगा और लोगों को इसका मिल पाएगा।

कम्यूनल रायट्स उत्र होने हैं तो उनका नतीजा क्या होना है? जब किसी एक किरके के लोग मारे जाते हैं तो उनकी सोमाइटी ही खत्म हो जाती है, उनकी इकोनोमी ही खत्म हो जाती है? डागा साहब बोल रहे थे: भिबडो में जो किरकाबाराना फिदादान हुए तो ऐसी तरकीब लगाई गई कि अकलियत क लोगों की इकोनोमी ही खत्म हो जाए।

आप देखें कूरकेला में यही पोर्जीशन थी, खंगाल में भी यही हुआ, बिहार राजा में भी यही पोर्जीशन हुई। बहरहाल, देर आयद-दुस्त आयद। मैं वाकई मोहसिन साहब को सुबारकवाद देता हूँ कि ऐसे वकत में बिल लाये हैं जब कि इस की सखत जरूरत थी और इस बिल के पास होने के बाद जल्दी कोरेज का डिमपोजल हो सकेगा और लोगों को इन्साफ मिल सके ऐसी बात इस बिल में है।

अखिर में मुझे यह कहना है कि पुलिस पर खासनिगाह होनी चाहिये कि यह जो चार्जशीट देने में देर करते हैं इस पर कोई खास रोक थाम इस बिल में होनी चाहिये कि अगर कोई आकरेंस हो गई हो तो 15 दिन में, 20 दिन में या 30 दिन में चार्जशीट सबमिट कर देनी होगी, ऐसा कोई बात इस बिल में नहीं है। आप ऐसा कर दीजिए कि 15, 20 दिन या एक महीने के अन्दर अन्दर कोर्ट में चार्जशीट दे दी जायत कि मौके का गवाही जायल नहीं हो और कोर्ट दो महीने के अन्दर या 90 दिन के अन्दर केस का फतला कर दे।

इन अलफाज के साथ मैं इस बिल का ताईद करता हूँ।

[श्री मुहम्मद जमेल अलबहार]

(केशू, गंज) : महतम जेहेरुमन صاحب मेहन आप का शकर कुंरार एवों के आप ले

महमे मرقमे दिया है - मो. महसन صاحب का भी शकर कुंरार हों के अनहों ने एक नार्क मرقमे पर ऐसा बल रक्या है - अस तरह के बल के लई 1998 में नेशलल अन्विक्रेशन कौन्सल ने सफारश की त्ही - अज अस को लाया दिया है - डीर आद दरसत आद -

हलदुस्तान में मखतलफ डातों और मरेदों के लुक रहते हों - जब से मलक का बतौरा हुआ है अस के नेद से जाले भी नुक्ते दाराने ससदत हुंते हों अन मोन जतला माली और जाली नखान हुआ है अस का अदारे आप लकाना जाहों तो भेत मखल से ही आप लका पाने लगे - हर कुरने में नुक्ते दाराने ससदत हुंते हों - नुके डुरुर शोव के सतहे ये हुंते हों - अन के पुरुरे कुसे लुकों का हाते त्हा ये भी कुसी से जेपिया हुआ न्हेन है - मोन समजेता हों के ये बल भेत नसब वकत पर लाया कुंरार है - अस बल के अइज अइल्ट अउबजेकतें में आप ले क्हा है -

"There are considerable delays in the disposal of criminal cases arising out of communal disturbances."

ये बालकल त्हेक बात है - अस से कमिशनल राणस के कुसुंर का क्सेपुजल जल्दी हो जाला कुरेता - मजेर याद है के लक कुसुंर जो के कमिशनल राणस का त्हा - ओव जो 1959 में दल्लेर हुआ

[شری محمد جمال الرحمانی]

تھا۔ اس کا ڈسٹوربل ہوتے ہوئے ۱۹۶۲
 ہو گیا۔ تب تک گواہوں میں سے
 چار پانچ مر بھی چکے تھے۔ یہ جو
 دیہی ہوتی ہے وہ اب اس بل کے
 پاس ہونے سے نہیں ہو سکتی۔ پہلے
 پولیس انویسٹیگیشن - پھر چارج
 شہت - پھر لورڈ کورٹ اور لورڈ کورٹ
 کے بعد سیشن کورٹ کے سپرد معائنہ
 کرتے تھے ان سب میں بہت زیادہ
 دیر لگ جایا کرتی تھی۔ یہ بہت
 لانگ پراسس تھا۔ لوگوں کو انصاف
 نہیں مل پاتا تھا۔ اس کے معنی ہوتے
 تھے انصاف کا خون۔ اس طرح کے بل
 کو پھس کولے کی سخت ضرورت تھی۔
 اس واسطے جو بل لیا گیا ہے اس کی
 میں تالہد کرتا ہوں۔ شیکشن ۳ میں
 لکھا ہوا ہے۔

"Where a State Government is
 satisfied that—

(1) there was, or

(ii) there is, in any area within a
 State extensive disturbance of the
 public peace and tranquility, by
 reason of differences or disputes
 between members of different religi-
 gious, racial language or regional
 groups or castes or community, it
 may, by notification in the Official
 Gazette, declare that such area shall
 be deemed to be a disturbed area for
 the purposes of this Act "

آپ دیکھیں کہ ایسٹرن زون کتنا
 ڈسٹوربلہ رہا ہے۔ اور اس میں کس
 قدر ملک کی سالمیت کو خطرہ پہنچا

کیا تھا۔ آسام میں لوہنگریج کے نام
 پر کتنا جانی اور مالی نقصان ہوا ہے۔
 یہ بات بھی کسی سے چھپی نہیں ہے۔
 اور آگے آپ انہی بلنگال میں پچھلے چند
 سالوں میں کتنے ہی کمیونل رائٹس
 ہوئے ہیں۔ بعد آگے میں انہوں -
 وہ ان بھی بہت ہوئے ہیں۔ مدعوہ
 پردیش میں بھی بہت ہوئے ہیں۔
 عرض پورے بھارت میں ایک آگ سی
 لگتی ہوئی چلی گئی تھی۔ ان کو
 روکنے کا کوئی فوری علاج نہیں تھا۔
 اس بل کی میں مستحکم ہوں کہ
 سخت ضرورت تھی۔ اس سے اتنی
 لمبی کارروائی کا حاتمہ ہو جائیگا۔ اور
 لوگوں کو انصاف مل پائیگا۔

کمیونل رائٹس جب ہوتے ہیں تو
 اس کا نتیجہ کیا ہوتا ہے۔ جب کسی
 لوگ فرقہ کے لوگ مارے جاتے ہیں
 تو اس کی سوسائٹی ہی ختم ہو
 جاتی ہے۔ اس کی ایکانمی ہی ختم
 ہو جاتی ہے۔ ڈاگا صاحب بول رہے تھے۔
 بھونڈی میں جو فسادات ہوئے تو ایسی
 تو کھپ لگائی گئی کہ اقلیت کے لوگوں
 کی ایکانمی ہی ختم ہو جائے۔ آپ
 دیکھیں روزگیا میں یہ بھی پوزیشن تھی۔
 بلنگال میں بھی یہی ہوا۔ بہار راجھی
 میں بھی یہی ہوا۔ بھکر حال دیر
 آہد دوست آہد۔ میں واقعی محسن
 صاحب کو مبارکباد دیتا ہوں کہ
 اسے وقت میں بل لگے ہیں۔ جبکہ

اس کی سخت ضرورت تھی - اور اس بل کے پاس ہونے کے بعد چاندی کیسز کا ڈسپوزل ہو سکیگا اور لوگوں کو انصاف مل سکے گا - ایسی بات اس بل میں ہے -

آخر میں مجھے یہ کہنا ہے - کہ پولیس پر خاص نگاہ ہونی چاہیئے کہ یہ جو چارج شیٹ دینے میں دیر کرتے ہیں اس پر کوئی خاص روک تھام اس بل میں ہونی چاہئے کہ اگر کوئی اوکریڈس ہو گئی ہو تو 15 دن میں یا 20 دن میں چارج شیٹ سمیت کرنی ہوگی - ایسی کوئی بات اس بل میں نہیں ہے - آپ کو دیکھئے کہ 20-15 دن یا ایک مہینے کے اندر اندر کورٹ میں چارج شیٹ دے دی جائے تاکہ شہادت ضائع نہ ہو جائے - تاکہ کورٹ دو مہینوں کے اندر یا 9 دنوں کے اندر کہس کا فیصلہ کرے -

ان الفاظ کے ساتھ میں اس بل

کی تائید کرتا ہوں -]

شری جگنناथ شیخ (مधुवनी) : سभा-पति सहोदय, जिस विषय पर हम चर्चा कर रहे हैं वह बड़ा गम्भीर है। इस देश की आबादी 60 करोड़ से भी ज्यादा है। इस देश को चलाना विश्व को चलाना है, इस का प्रशासन विश्व के प्रशासन के समान है। इस मुल्क में अनेक कठिनाइयां हैं और वह आज से नहीं हैं बल्कि अंग्रेजों के जमाने से थीं और उन्होंने हमारे ऊपर यह अनावश्यक बोझ लाद दिया

और साम्प्रदायिक दंगों के नाम पर एक ऐसी चीज जिस का सामना अभी तक नहीं कर पा रहे हैं। इसलिये प्रशासन के लिये आवश्यक है कि इस तरह के साम्प्रदायिक दंगे और अन्य प्रकार की गड़बड़ियां न होने दें और इसके लिये कोर्ट में शरण लेनी होगी। लेकिन कोर्ट में बहुत समय लगता है जिस की वजह से गरीब लोग लड़ नहीं सकते हैं और इस तरह की परेशानियां गरीबों के साथ ही की जाती हैं और वहीं बेचारे मारे जाते हैं। इसलिये उन के साथ इन्साफ हो और जल्दी हो वरना जस्टिस डिलेड जस्टिस डिनाइड। इस पृष्ठभूमि में यह बिल अगल लाया गया है तो उप-मंत्री महोदय बधाई के पात्र हैं।

साम्प्रदायिकता क्यों होती है, इस के दी, तीन कारण मैं बताऊंगा। समाज में कुछ ऐसे तत्व हैं जिन को शान्ति का वातावरण पसन्द नहीं है। वे किसी न किसी बहाने से गड़बड़ी पैदा कर देंगे और देश में अशान्ति फैला देंगे। कुछ राजनीतिक दल ऐसे हैं जिन्होंने ठेकेदारी ले रखी है कि हम देश के प्रशासन में बाधा उपस्थित करें। तो ऐसे दलों को दूध की मखो की तरह निकाल कर बाहर फेंक देना चाहिये। हमारे देश में भिन्न-भिन्न जाति के लोग हैं, भिन्न-भिन्न भाषा, वर्ग के लोग हैं, भिन्न भिन्न जमीन है, मिट्टी है और उपज है। इसीलिये यह देश विश्व के बराबर है और इतने बड़े विशाल देश का शासन इन्दिरा जी के नेतृत्व में चल रहा है। तो बाहर के लोगों को यह बात पसन्द नहीं है कि आज यह देश इतना स्वस्थ हो गया और प्रगति के पथ पर आगे बढ़ रहा है। तो विदेशी एजेन्ट हमारे देश में घुस आये हैं और वह भी साम्प्रदायिकता की चालें चलते हैं और लोगों को पैसा दे कर उभारते हैं और देश में अमन चैन को बिगाड़ते हैं। इस बात को शासन को मजबूती से रोकना चाहिये और ऐसे लोगों को ढूढ़ ढूढ़ कर एक एक करके देश से बाहर निकाल देना चाहिये।

यह विधेयक इस उद्देश्य से लाया गया है कि जहां गरीब, हरिजन आदिवासी या

[श्री जगन्नाथ मिश्र]

सुसलमान हैं, कोई एक दूसरे को दबाव नहीं, कोई किसी को सताये नहीं। हम तो समाजवाद की बात करते हैं जिस में रात को एक समान जीवन व्यतीत करने की आवश्यकता है और इस प्रकार देश को प्रागे बढ़ाते जले यह हमारा लक्ष्य है। और इस विषयक से हमारे उस लक्ष्य की पूर्ति होती है। इसलिये मैं इस का तहेदिल से समर्थन करता हूँ और मंत्री महोदय को धन्यवाद देता हूँ।

श्री मूलचन्द्र शर्मा : इस बिल में सब बातें हैं, लेकिन मैं यह जानना चाहता हूँ कि गुरुद्वारों, मंदिरों और मस्जिदों में जो धर्मगुरु धर्म का प्रचार करके झगडा करते हैं, उन धर्मगुरुओं के लिये इस बिल में कोई सजा है या नहीं ?

SHRI F. H. MOHSIN: That is in the IPC.

Mr. Chairman, Sir, I am very much thankful to the hon. Members, who have participated in the debate, especially to those who have supported the Bill. The lone Member, who opposed the Bill is Shri Joarder, but his opposition is also very limited. He had no objection for the communal disturbances to be brought within the scope of this Bill, but he did not want other differences, namely racial, linguistic, regional differences and difference based on castes or communities to be brought within the scope of this Bill.

SHRI DINESH JOARDER. I simply said that differences based on language and region should not be included.

SHRI F. H. MOHSIN: That was the limited opposition to the Bill as put forward by Shri Joarder. He also quoted the decisions of the National Integration Council. It is true that the National Integration Council in its deliberations in 1968 emphasised on the need to curb communal disturbances and recommended a Bill of this nature. They had opined the differen-

ces based on religion, race or any other ground as communal and on that basis they recommended for the amendment of Sec. 153 IPC. Perhaps they had also in their mind the linguistic differences. We cannot say that the breach of peace or the extensive disturbance of the public peace could be only on the ground of communal disturbances. We cannot underestimate the disturbances arising out of differences, like language differences, racial differences or regional differences. We had occasions, when we witnessed disturbances of these types.

In Assam, in the district of Cachar, we witnessed very violent disturbances on the basis of linguistic differences between the Bengali speaking population and the Assamese speaking population. We cannot underestimate the damages that are likely to be caused to the peace and tranquility of the country on this ground. We cannot say that these are less harmful than the communal disturbances. Then, we had occasions to witness disturbances on the basis of regional differences. For example because of differences between Andhra and Telengana regions, violent demonstrations went on for a long time and so much damage to the life and property was caused. Can we underestimate such kinds of disturbances on the ground of regionalism?

Again, we have got instances of Anti Hindi agitation in the South. There were violent disturbances on the basis of language. Can we underestimate such differences? I suppose, Shrimati Parvathi Krishnan spoke on the disturbances that took place between Tamilians and Malayalam-speaking people. There are so many instances of this sort. There are instances, when Shiv Sena workers were engaged in communal disturbances. There are so many instances of differences on the basis of regionalism or language.

So, we cannot underestimate the danger that is possible because of differences. Mr. Joarder was saying that disputes between landlords and tenants

will not be covered by this. I might say that merely because there are disputes or differences, those things would not come within the scope of this Bill nor special courts established. Only when there are extensive disturbances to public peace and tranquillity, the provisions of this Bill will be attracted. There may be differences, genuine differences on language. There may be some demands by the linguistic minorities or people living in a particular region or of a particular race. But merely because there are some differences, special courts will not be established automatically. Only if there are extensive disturbances—that is what we have said in the Bill itself.

“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... ”

This is what we have said. Merely because there is a difference or dispute, special courts will not be there nor will there be a declaration of a “disturbed area”. There must be extensive disturbance to public peace and tranquillity.

SHRI DINESH JOARDER: But who is to determine it?

SHRI F. H. MOHSIN: Of course, it is the State Government.

SHRI DINESH JOARDER: It is on the report and recommendation of the District administration.

SHRI F. H. MOHSIN: The State Government must be satisfied. Then he pointed out that under clause 5, when trying any scheduled offence, the special court may also try any offence other than the scheduled offence. But he omitted the last clause—“if the offence is connected with the scheduled offence”. If the offence is connected with the scheduled offence, then only the court will be jurisdiction, but not any offence which is not connected with the scheduled offence.

Mr. Daga said, the transfer of cases may cause further delay. . . .

SHRI DINESH JOARDER: I might draw your attention that in clause 7 there is no exception. There it is said:

“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....”

If it is not a scheduled offence, whether connected or not, there is no exception here.

SHRI F. H. MOHSIN: Clause 5 covers also all offences, other than the scheduled offence but connected with the scheduled offence. But clause 7 deals with a case which is not a scheduled offence and when read with clause 5, it is very clear that the offence should not be a scheduled offence and should not also be connected with the scheduled offence. Then only the courts will have the power to transfer that case to the regular courts. The suggestion of Mr. Daga, if accepted, will create difficulties.

Shrimati Parvathi Krishnan said about the active, of the Shiva Sena. We know, the CPI members are agitating for banning the Shiva Sena. It is true that before the Emergency, the Shiva Sena workers were found to have been engaging in such kinds of offences which would disturb public tranquillity on the basis of region and regionalism and linguistic differences. . . (Interruptions). ‘Sons of the soil movement’—if it does not harm the interests of other communities, we have no objection to that, but only to that limited extent....

SHRI M. C. DAGA: Friends like Shrimati Parvathi Krishnan are fighting for the rights of women and they create certain disturbances and disturb the tranquillity of this House. Will such activities come under the scope of the present Bill?

SHRI F. H. MOHSIN: After the emergency, it has not come to the notice of the Government that Shiv Sena is engaged in such activities. I can assure you, as already assured by the Prime Minister and the Home Minister, that we are having a close watch not only on the Shiv Sena but similar other organisations.

SHRIMATI PARVATHI KRISHNAN: But the point is what are the basic objectives of that organisation?

SHRI F. H. MOHSIN: I have already stated that after the emergency we have not noticed such activities, I say, not only of Shiv Sena but other organisations also. As I have already said, such organisations are under close watch.

Shri Dhamankar stated about the disturbances in Bhavandi. Those incidents justify the bringing in of this legislation.

He said that there must be a specified period for the disposal of the cases. I do not think that we can provide for a particular period during which the case should be disposed of. (Interruptions) It is for the courts to dispose of cases and the time taken depends upon the type of case that is being tried—the number and type of witnesses to be examined etc. All factors have to be taken into account.

It will not be feasible nor practicable nor advisable to specify a certain period within which the courts may be required to dispose of the cases. The very purpose of the Act is to have expeditious trial and speedy disposal of the cases. That is the reason why we want 'special courts'. After having declared that certain area is a disturbed area, special courts will be trying only the offences relating to that area. They will not try any other ordinary cases. So, naturally, there will be expeditious trial and speedy disposal and decision. It is expected that after the Act is passed, it will meet the demands made by Mr. Daga and others.

Shri Naik said that the Bill has been brought at a time when there are no disturbances. I will be very happy if such an atmosphere continues. I would be more happy if no disturbance takes place and no occasion arises for the use of this Bill. But we cannot take things for granted. This law will be used on such occasions when disturbances of this nature arise.

All the Members have evinced great interest in this Bill. I hope that this will act as a deterrent. Delays in disposal of the cases often entail the acquittance of the offenders. Because of delay the evidence is tempered with, the effect is lost and nobody takes interest in the case. If the cases are expeditiously disposed of, that will act as a deterrent.

SHRI DHAMANKAR: You have given summary trials provision.

SHRI F. H. MOHSIN: This will act as a deterrent and this will help in maintaining peace and tranquility in the whole country.

So, I commend this Bill for the acceptance of the House.

श्री मुद्गलकर जमीन सुरक्षा : मैं ने सिर्फ कैंसेज के डिस्पोजल के बारे में कभी नहीं कहा। मैं तो देख रहा हूँ कि सारी डिस्पोजल है। मगर असल सवाल तो यह है कि इन्वेस्टिगेशन की कोई लिमिट होनी चाहिये या नहीं? अगर कोई आकरेंस हो जाता है तो इतनी डिले हो जाती है इन्वेस्टिगेशन में कि उस का परपज खत्म हो जाता है। तो इन्वेस्टिगेशन के परिपक्व को कम किया जाना चाहिए।

SHRI F. H. MOHSIN: The investigations and other matters will be covered by the Cr. P.C.

MR. CHAIRMAN: The question is:

"That the Bill to provide for the speedy trial of certain offences in certain areas and for matters con-

nected therewith, as reported by the Joint Committee, be taken into consideration."

The motion was adopted.

MR. CHAIRMAN: We now go to clause-by-clause discussion.

Clause 2 (Definitions)

Amendment made:

Page 1, line 12,—

for "distributed" substitute—
"disturbed" (3)

(Shri F. H. Mohsin)

MR. CHAIRMAN: The question is:

"That Clause 2, as amended, stand part of the Bill."

The motion was adopted.

Clause 2 as amended, was added to the Bill.

Clause 3 (Declaration of an area as disturbed area)

Amendments made:

Page 2, line 23,—

for "the public peace" substitute—
"public peace and tranquillity"
(4)

Page 2, line 40,—

for "the public peace" substitute—
"public peace and tranquillity"
(5)

(Shri F. H. Mohsin)

MR. CHAIRMAN: The question is:

"That Clause 3, as amended, stand part of the Bill."

The motion was adopted.

Clause 3, as amended, was added to the Bill.

Clauses 4 to 10 were added to the Bill
The Schedule

Amendment made:

Page 5, line 14,—

for "2(c)" substitute "2(d)" (6)

(Shri F. H. Mohsin)

MR. CHAIRMAN: The question is:

"That the Schedule, as amended, stand part of the Bill."

The motion was adopted.

The Schedule, as amended, was added to the Bill.

Clause 1 (Short title, extent and commencement)

Amendment made:

Page 1, line 4,—

for "1974" substitute "1976" (2).

(Shri F. H. Mohsin)

MR. CHAIRMAN: The question is:

"That Clause 1, as amended, stand part of the Bill."

The motion was adopted.

Clause 1 as amended, was added to the Bill.

Enacting Formula

Amendment made:

Page 1, line 1,—

for "Twenty-fifth" substitute—
"Twenty-seventh" (1)

(Shri F. H. Mohsin)

MR. CHAIRMAN: The question is:

"That the Enacting Formula, as amended, stand part of the Bill."

The motion was adopted.

The Enacting Formula, as amended
was added to the Bill.

The Title was added to the Bill

SHRI F. H. MOHSIN: Sir, I beg to
move:

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

MR. CHAIRMAN: Motion moved:

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

Now, Shri Dinesh Joarder.

SHRI DINESH JOARDER: Sir I
again would like to draw the attention
of the hon. friend, Shri Mohsin, the
Minister to one thing.

I would request him at this stage
even if he could omit this language
'the regional groups and other classes'.
A valid question has been raised by
my friend Shri Jamilur Rahman. That
is regarding some specific instruction
as to by what time investigation should
be completed. I hope you were also
in the Committee on the Cr. P. C. Bill.
We fought a long battle to fix-up the
minimum time limit within which the
investigating officer should report and
submit his charge-sheet or final inves-
tigation report to the court. That time
was fixed with certain exceptions; or
with the permission of the trying
magistrate, the time can be extended.

Here on page 3, Clause 4, what is
stated is this:

"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."

The speedy trial is the only thing that
is there in the whole of the Bill. There
is no other provision about the time
by which the investigating officer
would complete and submit his report

to the special court. It is not mention-
ed at all. This is a lacuna and the po-
lice will get the upper hand and will
get enormous powers. That power is
also there under clause 6. So, I appre-
hend that this Bill may ultimately go
against the innocent people. I would
therefore, request the Minister to re-
consider at this stage even whether a
certain improvement can be made in
this Bill.

SHRI F. H. MOHSIN: I have al-
ready replied to all these points. There
is no new point raised by him.

SHRI MD. JAMILURRAHAMAN: I
think a valid point was raised by
Shri Joarder.

MR. CHAIRMAN: The question is:

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

The motion was adopted.

17.53 hrs.

MARRIAGE LAWS (AMENDMENT) BILL

MR. CHAIRMAN: Now, we take up
the Marriage Laws (Amendment) Bill.
Shri Gokhale.

THE MINISTER OF LAW, JUSTICE
AND COMPANY AFFAIRS (SHRI H.
R. GOKHALE): Sir, I beg to move:*

"That the Bill further to amend the
Hindu Marriage Act, 1955 and the
Special Marriage Act, 1954, as passed
by Rajya Sabha, be taken into con-
sideration."

The history of development of Hindu
Law shows that it was never static
and it had changed from time to time
so as to meet the challenge of the
changing requirements of different
ages. The Hindu Marriage Act, 1955
(25 of 1955) which is one part of the
codification of personal laws, became
law on the 18th May 1955. It applies
to all persons who are Hindus as
defined in that Act.