

SHRI SURENDRA PAL SINGH :
I move :

"That the Bill, as reported by the Select Committee, be passed."

MR. DEPUTY-SPEAKER : The question is :

"That the Bill, as reported by the Select Committee, be passed."

The motion was adopted.

14.18 hrs.

SUPREME COURT (ENLARGEMENT OF CRIMINAL APPELLATE JURISDICTION) AMENDMENT BILL

THE MINISTER OF STATE IN THE MINISTRY OF LAW AND JUSTICE (SHRI NITIRAJ SINGH CHAUDHARY) : Sir, I beg to move :

"That the Bill to amend the Supreme Court (Enlargement of Criminal Appellate Jurisdiction) Act, 1970, as passed by Rajya Sabha, be taken into consideration "

Till 9th August, 1970, the citizens of this country did not have a right to go in appeal to the Supreme Court if there was a sentence of imprisonment for life or for not less than 10 years. Now, the provision is :

".....an appeal shall lie to the Supreme Court from any judgment, final order or sentence in a criminal proceeding of a High Court in the territory of India if the High Court—

- (a) has on appeal reversed an order of acquittal of an accused person and sentenced him to imprisonment for life or to imprisonment for a period of not less than 10 years ;
- (b) has withdrawn for trial before itself any case from any court subordinate to its authority and has in such trial convicted the accused person and sentenced him to imprisonment for life or to imprisonment for a period not less than 10 years ;"

This Bill came on the statute book because of the persistent efforts of Shri Mulla who was a Member of this House, and is now a Member of the Rajya Sabha. When this Bill was passed, the State legislature of Kashmir had not passed a resolution as required by article 134(2) of the Constitution to enable the Govt. to act. Therefore, provisions of this Bill could not be made applicable to the State of Jammu and Kashmir.

After the passing of the Bill, they have now passed a resolution and have sought that this Bill be made applicable to the citizens living in the State of Jammu and Kashmir. This Amendment Bill before the House is to confer the same right on the people living in the State of Jammu and Kashmir as is conferred on the people living in the rest of India.

With these words, I commend the Bill for consideration of the House.

MR. DEPUTY-SPEAKER : Motion moved .

"That the Bill to amend the Supreme Court (Enlargement of Criminal Appellate Jurisdiction) Act, 1970, as passed by Rajya Sabha, be taken into consideration."

SHRI MADHURYYA HALDAR (Mathurapur) : By this Bill the Government desires to extend the appellate jurisdiction of the Supreme Court to the State of Jammu and Kashmir. That is the reason

The Bill seems to be very simple and innocent. But Kashmir enjoys some special status and some privileges in relation to other States of the Union. And this status and privileges have been provided to this State by certain provisions in the Constitution and this special status and privileges have been a point of suspicion to some political parties and a subject of criticism or rather envy to some States of this country. What are the reasons for this suspicion and what are the reasons for this envy ?

As regards envy, the State of Jammu and Kashmir enjoys some special status which the other States of the country do not enjoy and furthermore, the other States of the country have been demanding more power in the hands

of the States, rather provisional autonomy, within the jurisdiction or federal structure of the country. And the suspicion among the political parties is that by giving this special status, the Government is at least trying to appease the population of a particular religion of that State of Jammu and Kashmir and that political party or political parties would be glad to support this Bill because that status of Jammu and Kashmir is being lowered and that State is brought on par with the other States. But our objection is basic and quite a different one. We do object to this lowering the status of Kashmir. Rather, we demand and there has been a demand from different States of the country that their status should also be raised, not eroded.

MR. DEPUTY-SPEAKER : The Legislative Assembly of the State of Jammu and Kashmir itself has asked for this measure. Then, how is their status lowered ?

SHRI MADHURYYA HALDAR : The status is lowered in the sense that whenever an Act is passed in this Parliament . . .

MR. DEPUTY-SPEAKER : About this Bill, they themselves adopted a resolution in their Assembly requesting this measure. So, the question of lowering their status does not arise.

SHRI MADHURYYA HALDAR : The majority of the members of the ruling Party there also

MR. DEPUTY-SPEAKER : Whatever it is, it is the resolution of the whole Assembly. It is not relevant.

SHRI MADHURYYA HALDAR : We demand that the status of the other States should be raised on par with Kashmir. For that reason, we object to this Bill.

डा० लक्ष्मीनारायण पांडेय (मंडसौर) :
उपाध्यक्ष महोदय, इस विधेयक के बारे में बहुत कुछ नहीं कहना है तथापि एक बात निश्चित है कि फिर चाहे इस के बारे में राज्य सरकार द्वारा संकल्प पारित कर वहाँ पर लागू करने का विचार व्यक्त किया गया हो अथवा केन्द्रीय सरकार द्वारा स्वयं ही कानून बनाकर वहाँ पर लागू करने की बात हो, हम सदैव ही अनुमति देते हैं

कि इनका विस्तार जम्मू और कश्मीर में भी किया जाये। किन्तु इस अवसर पर मेरा एक नम्र सुझाव है कि इससे अच्छा यह ही बनाये एक एक कानून को लागू करने के अथवा विधान सभा की स्वीकृति या संकल्प के पश्चात् लागू करने के संविधान के अनुच्छेद 370 का, जो हमारे मध्य में एक दीवार के समान खड़ा है, हम हटा दें। फिर मैं समझता हूँ हमारा साथ करता ठीक हो जायेगा। इस अवसर पर मेरा यह अग्रह है कि हम धारा 370 को हटा दें ताकि केन्द्रिय सरकार द्वारा मार कानून जो जारी दिये गए हैं या भविष्य में जो केन्द्रिय सरकार बनाता चाहता है वे स्वयं यथासमय लागू होते रहे। इस अवसर पर मेरा यही निवेदन है।

*SHRI J. MATHA GOWDER (Nilgiris): Mr. Deputy-Speaker, Sir, the hon. Minister, Shri Niti Raj Singh Chaudhury has placed before this House the Supreme Court (Enlargement of Criminal Appellate Jurisdiction) Amendment Bill. This is a small piece of legislation which seeks to extend the provisions of the Supreme Court (Enlargement of Criminal Appellate Jurisdiction) Act which was passed in 1970, to be the State of Jammu and Kashmir.

I would like to ask only one question on the provisions of this Bill. This Supreme Court (Enlargement of Criminal Appellate Jurisdiction) Act was passed in 1970. I want to know whether at the draft stage of this Act the Jammu and Kashmir Government was consulted regarding the extension of the provisions of this Act to that State. The hon. Minister stated that in pursuance of the Resolution passed by the State Legislature of Jammu and Kashmir recently, this amending Bill has been introduced. If the State Legislature has agreed now for the extension of this Act to the State, what would have come in the way of the State to accept it in 1970 itself? Did the Central Government at that time try to convince the State Government about the efficacy of having this law extended

*The original speech was delivered in Tamil.

[Shri J. Matha Gowder]

to the State? Did the State Government refuse to accept the arguments of the Centre in favour of this law?

During this interregnum of two years, from the date of enactment of this law and to this day when the provisions of the Act are being extended to the State of Jammu and Kashmir, I would like to know whether the State Government denied its people the right of criminal appeal to the Supreme Court and if not, to which Court they were taking the criminal appeal. What is the reason for the delay of two years in extending this Act to Jammu and Kashmir? I do not know whether the Central Government brought any pressure to bear upon the State Government in the matter of extending this Act to the State, as a result of which the State Legislature passed a resolution asking for the extension of the Act to Jammu and Kashmir.

I would like the hon. Minister to clarify these points in his reply to the Debate.

SHRI NITIRAJ SINGH CHAUDHARY: Mr. Deputy-Speaker, I would like to reply to Mr. Gowder first. The Central Government could not do anything. I would like to point out that we brought the whole thing to the notice of the Government of Jammu and Kashmir. Their legislature passed a Resolution and sent it to us and we have taken action and the Bill is before this House after having been passed by the other House. Dr. Pandeya mentioned about Art. 370. There was a discussion in great detail in this House on a motion of his party leader and Government's stand was made clear then. Article 370 is getting eroded from time to time and automatically nothing would be left for being acted upon.

I am thankful to the hon. Members who have generally supported the Government's stand and I commend this Bill for the acceptance of the House.

MR. DEPUTY-SPEAKER: The question is:

"That the Bill to amend the Supreme Court (Enlargement of Criminal Appellate Jurisdiction) Act, 1970 as passed by Raja

Sabha, be taken into consideration."

The motion was adopted.

MR. DEPUTY-SPEAKER: The question is:

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

The motion was adopted.

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

SHRI NITIRAJ SINGH CHAUDHARY: I beg to move:

"That the Bill be passed."

MR. DEPUTY-SPEAKER: The question is:

"That the Bill be passed."

The motion was adopted.

14.31 hrs.

INDIAN TELEGRAPH (AMENDMENT) BILL

THE MINISTER OF COMMUNICATIONS (SHRI H. N. BAHUGUNA): I beg to move:

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

This is a very simple and innocuous Bill by which we are trying to bring the provisions of the parent Act in conformity with the Fundamental Rights conferred by our Constitution, and I hope that the House will accept the amending Bill.

MR. DEPUTY-SPEAKER: motion moved:

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

SHRI DINEN BHATTACHARYYA (Serampore): I am very sorry that Shri H. N. Bahuguna has brought forward a Bill which is nothing but an attack on the Fundamental Rights conferred by our Constitution. I would say that this Bill constitutes an attack on the liberty of the individual and on the freedom of the press.