

MR. SPEAKER: I will ask Minister when he comes back to read the statement himself.

श्री मधु लिमये : पहले मुझे धरु कराने कीजिये।

अध्यक्ष महोदय : जब वह भायेंगे।

Immediately after the passage of the Code of Criminal Procedure Bill, I will allow one hour for brief speeches for two or three minutes by members who are affected by the recent floods in Gujrat and Rajasthan to impress upon the Government the need for appropriate action.

श्री हुकम चन्द कछवाय (मुरैना) : अध्यक्ष महोदय, मध्य प्रदेश के सदस्यों को भी मौका दिया जाये।

श्रीमती सहोदराबाई [राय (सागर) : अध्यक्ष महोदय, मध्य प्रदेश में भी बाढ़ आई है।

अध्यक्ष महोदय : यह बिल पास होने के बाद आप भी कह लीजिएगा।

11.48 hrs.

## CODE OF CRIMINAL PROCEDURE BILL.—contd.

### CLAUSES—contd.

MR. SPEAKER: Further clause by clause consideration of the Bill to consolidate and amend the law relating to Criminal Procedure, as passed by Rajya Sabha.

This Bill must be disposed of within two hours. That is the commitment in this House. The House was devoting the whole of its time Saturday to this.

### New Clause 435A

SHRI MADHU LIMAYE (Banks): I beg to move.

Page 148, after line 4,—insert—

"435A. (1) When any person under the age of fifteen years is sentenced by any Criminal Court to imprisonment for any offence, the Court may direct that such person, instead of being imprisoned in a criminal jail, shall be confined in any reformatory established by the State Government as a fit place for confinement, in which there are means of suitable discipline and of training in some branch of useful industry or which is kept by a person willing to obey such rules as the State Government prescribes with regard to the discipline and training of persons confined therein.

(2) All persons confined under this section shall be subject to the rules so prescribed.

(3) This section shall not apply to any place in which the Reformatory Schools Act 1897, is for the time being in force". (261)

अध्यक्ष महोदय, मेरा यह संशोधन कोई नया संशोधन नहीं है। जहाँ वर्तमान क्रिमिनल प्रोसीजर कोड है, उस की धारा को मंत्री महोदय ने नये बिल में काटने का निर्णय किया है। इस का कारण क्या है, यह मेरी समझ में नहीं आता। वर्तमान कोड की धारा में वह प्रावधान है कि यदि पंद्रह साल, या उस से कम उम्र के लड़कों की सजा हो जाती है, तो उन को जेल में रखने के बजाये रेफ्रेटरी में भेज दिया जाये। अब इस धारा को काट देने के बाद मैं मंत्री महोदय से जानना चाहता हूँ कि क्या उन को आप जेलों में भेज देंगे? जेलों में जो कम उम्र के लड़के होते हैं उन के साथ बड़ी ज़्यादाती होती है। मंत्री महोदय जानते हैं, पौर नगरपालिका के पक्ष के अमान में जो लड़के जेलों में रह

बुके हैं उन को यह मानूँ है कि जेलों में जो बड़ी उम्र में सुधार किये होते हैं उन के साथ यह तरह के व्यवहार करते हैं। ऐसी हालत में मैं यह मुनासिब नहीं समझता हूँ कि 15 साल से जिन की उम्र कम है उन को आप रिफार्मेटरी में भेजने के बजाय जेलों में भेजें। अगर मंत्री महोदय बतलाएँ कि उन्होंने इस धारा को क्यों हटा दिया है तो मैं अपने संशोधन पर पुनर्विचार करूँगा। लेकिन अगर कोई कारण नहीं है और उन्होंने ठीक वय से इन के ऊपर नहीं सोचा है तो मेरा मुझाव है कि इस संशोधन को मानें और वर्तमान क्रिमिनल प्रोसीजर कोड की जो धारा है उस को नये बिल में भी समाविष्ट करें।

**SHRI DINESH JOARDER (Malda)**— I also support the amendment moved by Shri Madhu Limaye, on the ground that minors, women and other invalid persons, if they have been convicted of any offence, should not be sent to the prison as ordinary prisoners. We are also discussing this item in the Indian Penal Code Bill as regards juvenile offenders and other similar offenders, to the effect that they should not be in any case treated as veteran criminals and they should not be sent to the prison to be associated with those veteran prisoners who spoil their future lives. Even for a short period of detention, during the under-trial proceedings or during investigation, clause 437(1) says:

"Provided that the Court may direct that any person under the age of 18 years or any woman or any sick or infirm person, accused of such an offence be released on bail."

So there is a provision for releasing this type of offenders on bail. Under any circumstances whenever they are brought to the court, they should be released on bail. So, even the fra-

miers of the Bill had the intention that this type of offenders should not be sent to the prison to be associated with the veteran criminals and spoil their lives. So, when there is such a provision which you have inserted in the Bill for releasing them on bail during under-trial or during investigation time, why should you not keep a specific provision also for not sending them to the prison to be associated with the veteran criminals? So, I support the amendment moved by Shri Madhu Limaye and I request that the amendment may be accepted.

**श्री राम रत्न शर्मा (बादा)**— अध्यक्ष महोदय, श्री मधु लिमये के संशोधन का मैं स्वागत करता हूँ और उसका समर्थन करता हूँ। मंत्री महोदय से मैं यह आग्रह करना चाहता हूँ कि यह सर्वमान्य सिद्धान्त है और पूरे क्रिमिनल ला का यह मंशा है कि अपराधियों को सुधारा जाय। खास तौर से जहाँ पर छोटे बच्चों का और औरतों का प्रश्न है वहाँ तो उनको उन क्रिमिनल्स के साथ न रखा जाय जो कि सुधारे नहीं जा सकते। इसलिए मैं आग्रह करूँगा कि इसको अच्छी तरह से सोचें और इस सुधार को स्वीकार करने की इत्तना करें।

**SHRI G. VISWANATHAN (Wandiwash)**: Sir, I support the amendment moved by Shri Madhu Limaye, in the sense that the ultimate purpose of punishing the people is not to make them worse criminals but to reform them in the sense that those who are below 16 years of age are to be moulded; on the other hand, if you send them to the prison along with the habitual criminals, their condition will become worse and they cannot be reformed at all. So, either they must be sent to the reformatories or the borstal schools. It is very unwise to send them to the prison which will make them only worse criminals. So, I think that the Government should accept the amendment moved by Shri Madhu Limaye.

**SHRI R. V. BADE (Khargone)**: I want to support Mr. Limaye on

[Shri G. Viswanathan]

this point. The object is to reform an accused person, and not to punish him, so that his future will not be spoiled. Therefore, I do not know why the Joint Committee omitted the original section and why the hon. Minister had brought this Bill in this form. Since the object is reformatory and Mr. Madhu Limaye's amendment seeks to realise that objective, I support his amendment.

THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS AND IN THE DEPARTMENT OF PERSONNEL SHRI RAM NIWAS MIRDHA: I agree with the hon. Members that children should not be sent to jail but should be treated in a special school. Shri Limaye's amendment takes us back to the old code where this clause found place which also provided. This section shall not apply to any place in which the Reformatory Schools Act, 1897, is for the time being in force. When the Code was framed they put in this clause so that this section would not be enforced in places where there are Reformatory Schools. Since the adoption of the Code, the Reformatory Schools Act and its improved variety the Children's Act were made applicable in such large areas that this section had become obsolete. Almost every State has enacted its own Children's Act. Kindly see clauses 360 and 361 of the Bill, in clause 360 you will find "When any person not under twenty-one years of age is convicted of an offence....." 15 years has been increased to 21 years in that clause. Another important change has been made in clause 361 where it says: "Where in any case the Court could have dealt with an accused person under section 360 or under the provisions of the Probation of Offenders Act, 1958, or.....but has not done so, it should record in its judgment the special reasons for not having done so." Our policy is that in cases coming under the Probation Offenders

Act or the Children Act, these Acts should be applied. If the Courts want to make an exception, it has to record the special reasons. This is an improvement in that sense.

SHRI MADHU LIMAYE: Make it mandatory; I have no objection.

SHRI RAM NIWAS MIRDHA: We thought about this. Unless we have the requisite number of reformatory schools and children's institutions where they could be sent, this could not be done. The State Governments have been requested on a number of occasions that they should make more and more use of these provisions and more reformatory schools should be opened and children should be treated in a special way. From that point of view this provision is an improvement on the amendment.

श्री मधु लिये : अध्यक्ष महोदय, सब के लिए करें तो मुझे कोई एतराज नहीं है ।

अध्यक्ष महोदय, यह बच्चों का सवाल है, इस तरह से कैसे छोड़ा जा सकता है । अगर उनको मैं डेटरी करना है तो हमको कोई एतराज नहीं है ।

SHRI DINESH JOARDER: The minister says some States have adopted measures for juvenile offenders, but not all the States. So, why not make a provision in this Code so that it may be applicable to all the States?

SHRI RAM NIWAS MIRDHA: I have pointed out the practical and administrative difficulties. Unless it is implemented in the right spirit, what is the use of making such a provision?

MR. SPEAKER: I will now put amendment No. 261 to the House.

*Amendment No. 261 was put and negatived*

*Clause 436—(In what Cases bail to be taken.)*

SHRI DINESH JOARDER: I beg to move:

Page 148, line 7, for a "non-bailable" substitute "an" (187)

Page 148, line 7, for "a non-bail-without warrant" (188)

Clause 436 is the beginning clause of chapter XXXIII containing provisions as to bail and bonds. Clause 436 states that bail should be granted only to those persons who have been arrested or brought before a court other than persons accused of a non-bailable offence and arrested without warrant. That means, if a person is arrested for an offence which is non-bailable and is detained without a warrant, in that case there is no discretion for giving him bail. I want that the words "non-bailable" and "detained without warrant" should be omitted" so that the discretionary power of the court to grant bail should be applicable to all categories of accused persons. The Second proviso to this clause states:

"Provided further that nothing in this section shall be deemed to affect the provisions of sub-section (3) of section 116"

Section 116 provides for the proceedings to be adopted in cases where a bond is to be executed for maintaining peace and law and order, If the enquiry is pending, there is the discretionary power of the court for releasing him on personal bond or a bond to be executed by his sureties, By this second proviso you have taken away that discretionary power of the court,

In that case, as the cases mentioned in sub-clause (3) of clause 116, during the pendency of an inquiry for submitting or for executing a personal bond or security for main-

taining peace and order, in those cases you have taken away the discretionary power of the court. So, I would request that this clause should be amended as I have suggested so that the discretionary power of granting bail may be given to the court, irrespectively of any class of offences or the circumstances under which the offenders have been brought to the court. I would request the Minister to accept my amendments

श्री राम रतन शर्मा (बांदा) : अध्यक्ष महोदय, मैं इस अमेंडमेंट के बारे में जो श्री जोआरदार ने प्रस्तुत किया है दो शब्द कहना चाहूंगा। 116 क्लॉज, सब क्लॉज 2 के बारे में आपने जो कहा है, वह बहुत सही बात है। इलाहाबाद हाई कोर्ट की बात मुझे मालूम है इलाहाबाद हाईकोर्ट की रूलिंग है कि 107, 117 और 151 जाबता फौजदारी में जिनको लाते हैं, उनके लिये बेल का प्रावीजन लागू नहीं होता है, उसको ठीक करने के लिये आपने 116(3) में आपोजीशन पार्टीज को जो बेल का प्रावीजन दिया है, वह अच्छी बात है, क्योंकि वह एक्जुड परसन नहीं है, उन्होंने कोई आफेन्स कमिट नहीं किया है। परन्तु प्रस्तुत सुधार के संबंध में उक्त बात लागू नहीं है। आप उत्तर में कहेंगे कि—

"or appears or has brought before a court"

मे वारन्ट की बात कवर हो जाती है। लेकिन मेरा आग्रह यह है कि यह मैक्शन हैपिलीनर्डेड नहीं है। इसलिये जहां वारन्ट की बात आई है, वहां पर यह आजाये

with or without warrant—

तो बात बिल्कुल साफ हो जाएगी।

**SHRI B. R. SHUKLA (Bahraich):** There appears to be some confusion regarding the provisions of this section. If a person is arrested in pursuance of a warrant, there in the warrant itself it is written whether a person would be released on bail or not. Therefore, the suggestion becomes superfluous. So far as the suggestion of Shri Joarder that the discretion to allow bail to all persons irrespective of the offence should be given to the courts is concerned, my submission is that it would go to the very root of the matter because there are certain offences which have been designated as bailable while there certain other offences which have been designated as non-bailable. The power to refuse bail is vested with the judiciary in those cases where the offences are punishable with life imprisonment. As far as section 116 is concerned, the power is not taken away. Under section Cr. PC a person is required to furnish bail only for maintaining peace and good behaviour during the pendency of the inquiry. In default of the execution of the surety bond he has to be sent to the lock up, not otherwise. Therefore, the provisions are perfectly reasonable and they are in consonance with the previous position of law as it was obtaining in the country for the last more than half a century.

**SHRI K. NARAYANA RAO (Bobbili):** The mere fact that this particular provision has been there for the past fifty years is no answer for retaining it. There is an apparent anomaly between this position and the position we have taken earlier. Under the new provision the period of detention cannot exceed 60 days if he wants to extend it further he has to give the reasons. That is the position taken by the Code. What is the purpose of arresting and detaining a person? The purpose is that he should not be allowed to obstruct the enquiry. Once the charge-sheet has been submitted in a court of law, what is the necessity of detaining a

person? Where is the need for non-bailable offences? The very distinction between bailable and non-bailable offences seems to me an anomalous one. Even though it is a murder case, till it is proved, he is presumed to be innocent. Why should he be kept in detention? It is virtually a detention and imprisonment of a person without trial. Therefore, this is a matter which requires serious consideration by the Government. I know cases where the people have been detained for nothing. Sometimes, it happens that a person may be found innocent and may be acquitted. So, this distinction between bailable and non-bailable offences should be taken away. Once an investigation is completed, the person should be allowed at large and, after he is convicted, he will take the punishment under the law.

**SHRI RAM NIWAS MIRDHA:** Sir, the amendments suggested by Shri Dinesh Joarder, if accepted, will completely obliterate the distinction between bailable and non-bailable offences. Bailable and non-bailable offences have been listed according to the severity. There are some very serious crimes against individuals and society in which bail cannot and should not be given automatically. This is a very healthy distinction, based not only on past practice but also keeping in view the interests of society as a whole. Distinction between bailable and non-bailable offences must be maintained.

In this Bill, we have tried to liberalise bail provisions. We have provided for anticipatory bail. In certain cases, we have said that people could be let off on bail if the investigation is taking too long a time. We have tried to liberalise the provisions so far as bail is concerned. But the basic distinction between bailable and non-bailable has to remain. The courts have interpreted bail provision liberally. I think, that will serve the ends of justice.

MR. SPEAKER: Now, I put Amendment Nos. 187 and 188 to the vote of the House.

Amendments Nos. 187 and 188 were put and negatived.

MR. SPEAKER : The question is :

"That Clause 436 stand part of the Bill".

The motion was adopted.

Clause 436 was added to the Bill

Clause 437—(When bail may be taken in case of non-bailable offence).

SHRI DINESH JOARDER: I beg to move :

Page 148,—

for lines 28 to 30, substitute—

"Court, he shall be released on bail, if he is prepared to give such bail, unless the Court is of opinion that the same shall be refused in order to secure his attendance at the trial :

Provided that in all cases where bail is refused the reasons for such refusal shall be recorded in writing ;" (144)

Page 148, line 31,—

after "Provided" insert "further" (145)

Page 148, line 28,—

for "may" substitute "shall" (246)

Page 148, line 28,—

omit ", but he shall not be so released if there" (247)

Page 148,—

omit lines 29 to 33, (248)

Page 148, line 34,—

for "Provided further that" substitute "and" (249)

Page 148, line 36,—

omit "if he is otherwise entitled" (250)

Page 148,—

omit lines 37 and 38. (251)

Page 148, line 40,—

omit "that there are not reasonable" (252)

Page 148, lines 41 and 42—

omit "grounds for believing that the accused has committed a non-bailable offence, but" (253)

Page 149,—

omit lines 3 to 20. (254)

Page 149, line 23,—

for "sixty" substitute "ten." (255)

Page 149, line 24,—

for "during the whole of the said period"

substitute—

"for any time or reason whatsoever" (256)

Page 149, line 25,—

omit "unless for reasons" (257)

Page 149,—

omit line 26. (258)

श्री मधु सिन्घे : अध्यक्ष महोदय, मैं एक गुजारिश करना चाहता हूँ। डग द्वारा के क्लॉक के बारे में हम ज़ीरो को सक्त एनराज है और हमें कभी सुझार की गुंजा-इस है। लेकिन कभी बात करने का मौका ही

[श्री मधु लिमये]

नहीं मिला। क्या मैं आपसे बिनती कर सकता हूँ कि कुछ समय के लिए जैसे 76 धारा के बारे में किया और उसका रास्ता भी निकला उसी तरह से इसको भी विद्‌होल्ड किया जाये और इस बीच में हम लोग बात कर लेंगे।

श्री राम निवास मिर्धा : दो घंटे रह गए हैं, अगर आप समझते हैं कि इस बीच में बात हो सकती है तो बातचीत के लिए हम हमेशा तैयार हैं।

श्री मधु लिमये : दो घंटे बहुत होते हैं सुबह के लिए। अभी पांच मिनट बचे बात करते हैं।

SHRI DINESH JOARDER: Day before yesterday, on Saturday last, we adopted one amended clause 187.

Amendment No. 280 was moved by Shri B. R. Shukla; that was accepted by the Minister and was passed in the House. That amended provision of Clause 187 is totally contradictory to the provisions of Clause 437....

MR. SPEAKER: I pass on to the next Clause. You discuss this with them meanwhile.

कितना समय आप चाहते हैं ?

श्री मधु लिमये : एक घण्टा बंटा। यह कोई ऐसा बिल है कि बड़ी देखभाल ही पास किया जाये ?

अध्यक्ष महोदय : बड़ी कहां तक आपका आग्रह देगी। आपने कितना समय पहले लिया, फिर सैटबैक को समय लिया और फिर हाउस ने फैसला किया कि दो घंटे में आग्रह हो जायेगा तो यह भी क्या बड़ी का कचूर है।

SHRI DINESH JOARDER : It should be taken up later.

MR. SPEAKER: Yes, it will be taken up later.

आज लंच आबर रख देंगे उसमें जो भी बात आपने करनी है वह कर लें, पीछे की भी बात और धावे की भी बात। बैसे लंच आबर रखना तो नहीं चाहिए लेकिन रख देते हैं।

Clause 438—(Direction for grant of bail to person apprehending arrest)

MR. SPEAKER : Now we take up Clause 438.

SHRI RAM NIWAS MIRDHA : I move :

Page 149, line 43, for "an officer of the police", substitute: "a police officer". (83)

श्री राम रतन शर्मा : अध्यक्ष महोदय, मेरा ओरल प्रपोजिशन है। मैं बहुत थोड़ा टाइम लूंगा।

यह जो 438 क्लॉज है, मन्त्री जी ने इस बिल में एक नयी चीज समझ कर रखा है लेकिन मेरे विचार से गरीबों के लिए यह हितकर नहीं होगा। इससे उनको कोई फायदा होने वाला नहीं है। इसमें जितने भी ब्लैकमार्केटियर्स हैं, होर्सर्स हैं या बड़े आफेन्स कमिट करने वाले जो बड़े धादमी हैं, जो पैसों वाले हैं वे एन्टीसिपेटरी बेल ले लेंगे और जिस आशय से आपने इसको रखा है कि गरीब आदमियों को कुछ फायदा होगा वह होने वाला नहीं है। ऐसी स्थिति में मंत्री महोदय से मेरा आग्रह है कि इस क्लॉज को आप आल्टीमेट हटा दें।

SHRI RAM NIWAS MIRDHA: The problem was very seriously discussed in the Law Commission as well as in the Joint Committee. Even now certain High Courts have permitted some sort of anticipatory bail.

Therefore, it was thought necessary that some such provision would be necessary. But we have laid down certain conditions and safeguards so that this provision is not abused by persons. For example, if you see sub-clause (2), there it is laid down :

"When the High Court or the Court of Session make a direction under sub-section (1), it may include such conditions in such directions in the light of the facts of the particular case, as it may think fit, including—

(1) a condition that the person shall make himself available for interrogation by an officer of the police as and when required; ."

Then, there are other conditions also. So, I think this clause along with these conditions is quite satisfactory.

MR. SPEAKER : Now, the question is :

Page 149, line 43, for "an officer of the police", substitute "a police officer". (83)

*The motion was adopted*

MR. SPEAKER : Now, the question is :

"That clause 438, as amended, stand part of the Bill"

*The motion was adopted.*

*Clause 438, as amended, was added to the Bill.*

*Clauses 439 to 456 were added to the Bill.*

Clause 457—(Procedure by police upon seizure of property.)

SHRI RAM NIWAS MIRDHA : I move :

Page 155, line 19, for "appear", substitute:

"to appear". (84)

श्री मधु लिमये : अध्यक्ष महोदय, आप इतने घामे चले गये ? केवल तरसीम नहीं है इसलिये क्या एकदम से बोट हो जायेंगे ?

अध्यक्ष महोदय आप कहा थे ?

श्री मधु लिमये . मैं तो यही बँटा हूँ. आप ने 439 से 456 क्लॉज तक पाम कर दिया ।

अध्यक्ष महोदय : आप जग चौकन्ने रहा कीजिये । मैंने खास तौर मे पूछा था ।

श्री मधु लिमये : मैंने सुना ही नहीं ।

अध्यक्ष महोदय : आप वानें जरा कम कीजिये ।

श्री मधु लिमये : एमा कैसे हो सकना है ? यह सी० आर० पी० सी० है । ऐसा नहीं है कि इसमें हमको किस चीज पर आक्षेप, आब्जेक्शन नहीं है । इसलिये आप इकट्ठा बोट मत लीजिये ।

MR. SPEAKER : What is all this ? I have put them before the House. You were not getting up.

SHRI MADHU LIMAYE : I was under the impression that it was clause 439.

MR. SPEAKER : Now, I will put amendment No. 84 to the vote of the House.

श्री आर० पी० बड़े : मेरा कहना यह है कि जब यह ज्वॉयंट कमेटी मे था उस समय जो सुझाव रखे गये उस पर तो मंत्री महोदय ने आब्जेक्शन नहीं किया, लेकिन पार्लियामेंट में धीर बावें कह रहे हैं, धीर अमेंडमेंट दे रहे हैं ।

अध्यक्ष महोदय : आप भी दे रहे हैं, वह भी दे रहे हैं । वह तो उनका हक है ।



MR. SPEAKER : Now, the question is:

Page 155, line 16, for "appear", substitute "to appear". (84)

The motion was adopted.

MR. SPEAKER : Now, the question is :

"That clause 457, as amended, stand part of the Bill."

The motion was adopted

Clause 457, as amended, was added to the Bill.

Clauses 458 to 467 were added to the Bill.

Clause 468—(Bar to taking Cognizance after lapse of the period of limitation.)

MR. SPEAKER: There are two amendments, Shri Joarder.

SHRI DINESH JOARDER: I beg to move :

Page 158—

for lines 2 and 3, substitute

"Court shall take cognizance, in any case, after the expiry of the reasonable period of time within which the complaint could have been brought to the court unless otherwise debarred due to circumstances beyond the control of the complainant or the police officer, as the case may be." (228)

Page 158—

Omit lines 4 to 9. (230)

Sir, this is regarding period of limitation. This is about certain offences to be taken cognizance of by the courts. It says:

Except as otherwise provided elsewhere in this Code, no Court

shall take cognizance of an offence of the category specified in sub-section 3 after the expiry of the period of limitation.

The period of limitation shall be—

(a) 6 months if the offence is punishable with fine only ;

(b) 1 year if the offence is punishable with imprisonment for a term not exceeding 1 year.

(c) 3 years if the offence is punishable with imprisonment for a term exceeding 1 year but not exceeding 3 years.

Now, Sir, we have already discussed in the past when we were discussing certain earlier clauses.

SHRI MADHU LIMAYE: You may please put every clause separately.

यह क्रिमिनल ला है, व्यक्ति स्वतंत्रता का मामला है। मैं जनरल बात कह रहा हूँ कि प्राप हर क्लाज को प्रलग प्रलग रखिये।

अध्यक्ष महोदय मैं ने प्राप मे पूछा था, प्राप कुछ बोलने ही नहीं।

श्री मधु लिमये कोई कोई क्लाज कहता है, कोई कोई क्लाज कहता है, इस सबबड मे सुनने मे नहीं आता।

MR. SPEAKER: Please do not interrupt the hon. Member.

श्री मधु लिमये : यह क्रिमिनल प्रो-सीजर कोड है यह एक बुनियादी कानून फंडामेंटल प्रोसिजर की बात है।

SHRI DINESH JOARDER: These provisions of the Criminal Procedure Code were made by the British Government to suit their purposes. That is why we fought against it. We fought against these very oppressive measures. I think we should be given

sufficient time and opportunity to discuss the different clauses. While discussing the earlier clauses we have expressed our resentment over delays of the proceedings and delays of the investigations. If such delay takes place what is the fate of the accused persons? The police officer, at a convenient time of the period of 3 years, refers it to the court. The court has to take cognizance of that. The trial begins. You have not also specified anything as regards the completion of the investigation.

So, there is no timelimit excepting for the summons cases where there is provision for completion of the enquiry and investigation within the period of six months. These delaying tactics of the police officers will lead the accused persons to a very dangerous position.

I, therefore, object to this provision that the courts shall take cognizance of offences within a period of three years and then the Courts will start the trial and then the trial will go on. How long will it go on? That has not been specifically provided except in the cases of summons procedure. In these cases, for a longer period, the accused person will be kept on hanging. This is a very dangerous clause. I want this three year's provision and one year provision to be omitted and in that case, a shorter period should be there for the purpose of limitation. Generally what we find is this. I may mention that some incidents took place when West Bengal Government was led by the 'leftist party' And big capitalists instituted certain cases against the peasant workers and the labour workers. At that time, the police officers did not dare to go to the court. Now they have come up to the Central Government when these cases are three or four years old. Why are they sending those cases after three or four years? The accused person is being sent to the jail and he is under detention. What will happen to the witnesses? After three years, what

will they remember? How will you conduct the cases in the courts? The witnesses shall have no memory after the lapse of three or four years. Even after the lapse of one or two years, how can you ensure a fair justice being administered to the accused person? You will have to limit the period of limitation to a certain short period and that should be for two or three months. I have moved my amendment and I am strongly opposed to this period of three or four years. I would request the Minister that the clause should be suitably amended and the courts shall take cognizance within a period of two months—the maximum period must be sixty days. In other provisions you have kept the period of sixty days. That is in regard to releasing a person on bail or completion of investigation of cases and in case of summons cases. Similarly, in this case also, the period of limitation for taking cognizance of the offences by the court should be not less than sixty days. I have moved this amendment and I request the hon. Minister to say something on this.

श्री राव रत्न शर्मा : यह प्राश्न की बात है कि लिमिटेशन का प्रोविजन रखा गया है। यह समझ में आने वाली बात नहीं है। हर एक प्रादमी की रक्षा करना राज्य सरकार और केन्द्रीय सरकार का कर्तव्य है। अगर एक व्यक्ति दूसरे के खिलाफ आफेंड कमिट करता है तो आफेंडर को प्रासीक्यूट करना और दूसरे को न्याय दिलाना सरकार का काम है। यह जुरिसप्रुडेंस की बात है। किसी इडिविजुअल की जिम्मेदारी नहीं है। आपने यहां तीन साल रख दिया है। मजार्म ट्रांसपीटेशन फार लाइफ और डैच पैनलटी भी होती है। तीन साल की सजा तक भी आफेंड कानिजेबल और नाल वेलेबल होता है। उस में पुनिम इनवेस्टीगेट करती है और ऐसा करने में उसको

[श्री राम रतन शर्मा ]

तीन तीन और चार चार साल लग जाते हैं माइनर नेचर के अप्रॉक्स जो होते हैं और थ्रॉफ्ट के अन्तर्गत आते हैं इन में इन्वेस्टीगट करने में ही तीन चार साल तक लग जाते हैं। कभी-कभी पुलिस अप्रॉडर से मिल जाती है और झुठी केस डेरीज भी लिखती है। फिर दरखास्तें होती हैं और कभी-कभी सी० आई० डी० का इन्वेस्टीगेशन भी होता है सी० आई० डी० जांच करना शुरू कर दे और लिमिटेशन निकल जाए तो उसका इसमें क्या सेफगार्ड है ? छः महीने या तीन साल का लिमिटेशन जो भी आप ने रखा है उससे अगर एक दिन भी ज्यादा हो जाएगा तो टेक्नीकल डिफिकल्टी पैदा हो जायेगी सी० आर० पी० सी० का मंशा यह है कि क्रिमिनल को हर हालत में सजा दिलाई जाए। अप्रॉक्स करने वाले किसी भी आदमी के दिल में यह भावना नहीं आने देनी चाहिये कि जो लिमिटेशन प्रेसक्राइब्ड है उसको उसने पार कर लिया है और अब वह शान्ति से बैठ सकता है। अप्रॉक्स एक पाप है और पापी को कभी भी मानसिक शान्ति नहीं मिलनी चाहिये। इस सब पर सोच विचार करने के बाद मैं यही आग्रह करता हूँ कि आप लिमिटेशन के प्राविजन को मूलतः समाप्त कर दें।

SHRI G. VISWANATHAN: The cognizance of the power of the court extending for three years. I think, is a little too much on the high side. As was argued by my hon. friend Shri Joarder, after all, the police has to produce witnesses, and even if the period is six months or one year, it is too late for them to remember what happened at that time. If it is three years, then definitely it will only be tutored evidence by the police and they cannot say whatever

they saw, because they would have forgotten everything. I think the hon. Minister should consider the question of bringing down the limitation period from three years, and it will be wiser to keep it at one year or even less than that.

SHRI RAM NIWAS MIRDHA: At present, there is no limitation period provided in the Criminal Procedure Code, of the type that we have incorporated in this clause. This clause has been drafted in pursuance of the recommendations of the Law Commission and brings in a new element. One hon. Member said that the offender should always suffer and he should not be allowed to go scot-free or feel that he can break the law. On the other hand, Shri Joarder said that this limitation period was too much. What we are trying to do is this. There are certain types of cases of the nature that I mentioned earlier, which could not be kept hanging indefinitely like a Damocles' sword on the person concerned. It was with that and in view that we have made a beginning to impose limitations in criminal cases; and we have provided at the same time another safeguard in clause 473 which would answer the fears of Shri Sharma, which says:

"Notwithstanding anything contained in the foregoing provisions of this Chapter, any court may take cognizance of an offence after expiry of the period of limitation if it is satisfied on the facts and in the circumstances of the case that the delay has been properly explained and that it is necessary so to do in the interests of justice."

SHRI DINESH JOARDER : That is more dangerous.

SHRI RAM NIWAS MIRDHA : These two taken together would give the complete picture, and I hope that Shri Joarder would at least admit it as some beginning in the right direction, and if he does so, I shall be more than satisfied.

MR. SPEAKER : I shall now put amendments No. 229 and 230 to vote.

*Amendments Nos. 229 and 230 were put and negatived.*

MR. SPEAKER: The question is :

“That clause 468 stand part of the Bill”.

*The motion was adopted.*

*Clause 468 was added to the Bill.*

*Clause 469 to 472 were added to the Bill.*

Clause 473—(*Extension of period of limitation in certain cases.*)

SHRI DINESH JOARDER : I beg to move :

Page 150, line 27, for ‘of the period of limitation’, substitute ‘of the reasonable period of time as prescribed in section 468.’ (231)

Just now, the hon. Minister has referred to clause 473 in relation to the provisions of clause 468. We have already expressed our discontentment about the provisions of clause 468 which provides a limitation period of 3 years if the offence is punishable with imprisonment for a term exceeding one year. At least to have a fair trial in genuine cases, the period of completion of the trial as well as taking cognizance thereof, that is of any offence, should be as short as possible.

Generally, we have experience in the criminal courts that witnesses produced after two or three years or even after one year of the commission of a crime cannot remember it or identify the persons or the names of the accused. They do not remember what actually happened. Generally the police officers and the public prosecutor tutor the witnesses and ask them to depose in the court whatever the police officers tutor them. This way trial is going on in almost all criminal courts. Actually most of the people in the rural areas

are illiterate and have no idea of dates or calendars or time. They have no means of livelihood and they are very much tempted if a certain remuneration is offered in return for such deposition. By this malpractice witnesses can be purchased. If an unlimited period of three years or more or even three years is provided, the class of witnesses who generally appear in the courts will not be able to depose concerning the truth of what took place at the time of the commission of the offence. As a matter of principle, we opposed the period of limitation under cl. 468. Again under cl. 473, you give the court the discretionary power to take cognizance of such offences even after the expiry of three years. That means if the police officer sends a report or requests the court or submits any reason of his own, the court may take cognizance of the offence even after 3 years. There is no limit to the discretionary power to be applied by the court. This is a very dangerous clause provided. I vehemently oppose it and request the Minister to omit it altogether.

श्री राम रतन शर्मा : अध्यक्ष महोदय, मैं श्री जोरदार के संशोधन का अनुमोदन तो नहीं कर रहा हूँ, लेकिन मैं कहना चाहता हूँ कि मंत्री महोदय ने धारा 468 के द्वारा जो लिमिटेशन लगाया है, उस को धारा 473 के द्वारा खत्म कर दिया है। हम तो चाहते हैं कि क्रिमिनल ला में कोई लिमिटेशन न रहे और इन्वेस्टीगेशन के बाद फौरन ट्रायल हो जाये। लेकिन मंत्री महोदय ने धारा 468 में लिमिटेशन रख दिया है और धारा 473 में उस को समाप्त कर दिया है। हम समझते थे कि कानून में शब्दों का जो खिलवाड़ चला आ रहा है वह कम होगा, लेकिन मंत्री महोदय ने उस को बड़ा दिया है उन्होंने इस को लाइजर्ज पैराडाइज बना दिया है मंत्री महोदय को इन दोनों क्लोजिज को हटा देना चाहिये। वह

[ श्री राम निवास ]

इतने बड़े कोड में दो दफायें क्यों बढ़ा रहे हैं अगर उस में ये दो दफायें घट जाती, तो लोगों को कुछ राहत मिलती।

श्री मधु सिन्घे : अध्यक्ष महोदय, मैं देख रहा हूँ कि इस विधेयक में एक हाथ से जो नये अधिकार दिये गये हैं, प्राये चल कर दूसरे हाथ से उन को छीनने का इन्तजाम किया गया है। मैं हर एक प्रावधान के बारे में यह प्रकृति देख रहा हूँ। मैं मंत्री महोदय से प्रार्थना करना चाहता हूँ कि वह क्लॉज 473 को वापस ले ले। अगर क्लॉज 473 नहीं रहेगी तो कोई धासमान नहीं टूटने वाला है।

SHRI RAM NIWAS MIRDHA: As I said earlier, the idea of limitation in the Code is put in for the first time. We have made a beginning in a certain limited way; clause 468 and cl. 473 are complementary and if for any reason, the court feels that the period of limitation should not strictly apply, it has been given the power to relax it in the light of the circumstances of the case. So, there is nothing wrong in this. We are introducing a new idea, (Interruptions) Either we believe that the system of limitation is correct or we do not. If we do, this should be welcomed. But since we are doing it for the first time, certain safeguards have been provided in clause 473 which make it complementary with clause 468.

SHRI R. R. SHARMA: Where have you borrowed this idea from?

SHRI RAM NIWAS MIRDHA: The Law Commission has recommended it.

MR. SPEAKER: Now ideas are always brought in. Now, I shall put amendment No. 231 to the vote.

*Amendment No. 231 was put and negatived*

MR. SPEAKER: The question is:

"That clause 473 stand part of the Bill"

*The motion was adopted.*

*Clause 473 was added to the Bill.*

*Clauses 474 to 476 were then added to the Bill.*

*Clause 477— (Power to make rules in respect of petition writers.)*

*Amendment made:*

Page 160, in the marginal heading, omit "in respect of petition writers". (85)

(Shri Ram Niwas Mirdha)

MR. SPEAKER: The question is:

"That clause 477, as amended, stand part of the Bill"

*The motion was adopted.*

*Clause 477, as amended, was added to the Bill*

*Clause 478— (Construction of reference to Magistrates)*

SHRI RAM NIWAS MIRDHA: I move.

Page 161, for the existing marginal heading, substitute:

"Power to alter functions allocated to Judicial and Executive magistrates in certain cases". (86)

श्री मधु सिन्घे अध्यक्ष महोदय, इस क्लॉज में जो शक्ति हमें देने और दूसरे हाथ से छीनने वाला काम को जा रहा है। मैं चाहता हूँ कि मदन जी तरह से देखें कि हम क्या काम करने जा रहे हैं। यह क्लॉज इस प्रकार है—

"If the State Legislature by a resolution so requires, the State Government may, after consultation with the High Court, by notification, direct that—

(a) references in sections 108, 109 and 110 to a Judicial Magistrate of

the first class shall be constructed as references to an Executive Magistrate;

(b) references in sections 145 and 147 to an Executive Magistrate shall be construed as references to a Judicial Magistrate of the first class."

सब-क्लाज (बी) के बारे में किसी को शिकायत नहीं है। जहां तक (ए) का संबंध है, हम यह सुनते सुनते ऊब गये हैं—चार पांच सालों से मैं यह बहस सुन रहा हूँ—कि मौलिक अधिकारों और निर्देशक सिद्धान्तों में टकराव है। यही है न इस सरकार की दलील? लेकिन दफा 50 क्या है? उस में बिल्कुल स्पष्ट तौर पर कहा गया है कि कार्यपालिका और न्यायापालिका का अलगाव होगा। वह निर्देशक सिद्धान्त इस प्रकार है :

"The State shall take steps to separate the judiciary from the executive in the public services of the State."

हम तो क्लाज 108, 109 और 110 के खिलाफ ही हैं। लेकिन मंत्री महोदय द्वारा कहा गया कि हमने कार्यकारी मैजिस्ट्रेटों के अधिकारों को छीन लिया है। अब यह जो जूडिशियल मैजिस्ट्रेट है ये सब करेगे। अधिकारों का दुर्ूपयोग नहीं होगा और हम लिये गले के नीचे उतारने का इन्होंने प्रयास किया। लेकिन अन्त में 478 में क्या ले कर धा रहे हैं? मैं मंत्री महोदय से पूछना चाहता हूँ कि क्या उन को कोई नैतिक, कानूनी या सबैधानिक अधिकार है। कि जिस से निर्देशक सिद्धान्त संख्या 50 के विपरीत वह काम करने की छूट दे दे? मैं इस का कोई विरोध करता हूँ। क्लस कर 110 में कोई अंतराह नहीं, जुर्म नहीं,

कोई सन्देश नहीं, कोई शक नहीं, केवल वह हैबिचुअल आफेंडर है इस के लिये वह लोच जमानत, वारंट वगैरह की कार्यवाही करवा सकते हैं। मैं जानना चाहता हूँ कि जूडिशियल मैजिस्ट्रेट ता कम-से-कम निष्पक्ष ढंग में सोचेगा लेकिन कार्य पालिका के जो मैजिस्ट्रेट हे उन का यदि अधिकार ग्राप देगे तो इन लोगों के साथ बहुत बड़ा अन्याय होगा। मैं सिद्धान्त इस का विरोधी हूँ।

50 धारा के तहत कोई काम ऐसा नहीं होना चाहिये। मेरी सभी लोगों से प्रार्थना है और कांग्रेसियों से भी कि निर्देशक सिद्धान्त के हक में वह बोलें। इस लिये (ए) को तो ग्राप कटवा दीजिये? (बी) ठीक है, उसको रखिये।

SHRI B. R. SHUKLA: It is no doubt true that by the constitutional provision we are committed to separation of judiciary from the executive but unfortunately the administration of criminal justice is a State subject and any law passed by this parliament would be subject to any law passed by the State Legislature.

श्री नरु लिये : यह क्या बात कह रहे हैं? कौन सा सिद्धान्त प्रतिगदत कर रहे हैं।

श्री ब.० शुकलः ग्राप लडिये नहीं, कांस्टिट्यूशन को देखिये।

If there is any law affecting the administration of criminal Justice which is no in consonance but in conflict with the State law, the State law shall prevail. The creation of courts is an exclusive subject of the State list. Even if this Parliament were to pass a law that only judicial magistrates would enquire into certain types of offences, and if the State legislature passes a law contrary to that, the State law shall prevail over the law passed here....(Interrupt-

[Shri B. R. Shukla]

tions) I would be enlightened if there are any constitutional provisions to the contrary. In the Joint Committee the Government view was that State Government should be empowered to confer power by notification, on executive magistrate. As a via media it was felt that where the State Government wanted to invest the executive magistrate with power, it would have to do so after the concurrence of the State legislature and this concurrence would not depend upon the sweet will or caprice of the Government of the day. No State legislature I am sure, would go against the public opinion which has found expression in the insertion of this power which Parliament is going to delegate.

श्री राधरत्न झा में श्री मधु लिमये के इस प्रस्ताव का अनुमोदन करना है कि सेक्शन 108, 109 और 110 में एग्जीक्यूटिव मैजिस्ट्रेट को पावर्म न दे कर के जूडिशियल मैजिस्ट्रेट को ही रखा जाये इस का कारण है कि 109 और 110 के अन्तर्गत कम-से-कम उतर प्रदेश में हर थाने के लिये कोटा फिक्स्ड है और प्रति थाने में निश्चित सख्या में 109 व 110 के मामले लाने पडते है । हर महीने मीटिंग होती है जिस में डिस्ट्रिक्ट मैजिस्ट्रेट प्रेसाइड करता है, उसमें एस० पी०, पी०पी० और थाने के दारोगा तथा एग्जीक्यूटिव मैजिस्ट्रेट सब रहते है । अगर किसी बात में कंट्रोवर्सी होती है तो उस के उपर वह डिस्कस करते है । किस थाने से उपरोक्त कितने मामले आये और कितने सजा हुये इस बात पर भी विचार होता है । थानेदारों से जबाब तलब होता है कि तुमने थाने में कुछ नहीं किया वह कहते हैं कि मैजिस्ट्रेट ने इतने छोड़ दिए तो मेरा कहना है कि अगर आप न्याय करना चाहते है तो

कम से कम रजिमेंटें व्यक्ति स्वार्थ्य का प्रश्न है उन में जूडिशियल मैजिस्ट्रेट को ही दाई करने बीजिए और स्टेट्स को डायरेक्शन दे बीजिए कि वह कुछ नहीं बोलेंगे यह कंट्रोवर्सी लीगल राही हो सकती है जो शुक्ला जी बोल रहे है लेकिन जहां पर बिल आफ दि रिपुल का प्रश्न है और लिबर्टी का प्रश्न है उनमें एग्जीक्यूटिव मैजिस्ट्रेट को यह पावर न दी जाये ।

**SHRI DINESH JOARDER:** After the policy of separation of the judiciary from the executive at the magisterial level, the executive magistrates have very little time to dispose of quasi or semi judicial proceedings That is accepted by everybody The executive magistrates are overburdened with executive matters In fact, they do not sit in the courts for disposing of matters under sections 108, 109 or 110 Actually we find it very difficult to get in touch with them for giving any relief to the persons who have been charged under these sections Therefore, I agree with the suggestions made by Mr Limaye and submit that only judicial magistrates should be there and not executive magistrates.

**SHRI G VISWANATHAN:** Sir, I rise to oppose sub-clause (a) of this clause Even the member who supported this, Mr. Shukla, agreed with the view that the judiciary should be separated from the executive But he said that some States could not bring about this separation and so, we have to accommodate them If the Government is of the opinion that there should be complete separation of the judiciary from the executive, it should be the endeavour of Parliament to compel the States to make provision for this separation. In most of the southern States, they have been separated completely. I think tahsildars, who are otherwise called executive magistrates, are overburdened with revenue work and most of them do not have the legal know-

Judge also to deal with these cases. So, I submit that sub-clause (a) should be omitted.

**SHRI SOMNATH CHATTERJEE** (Burdwan): One of the Directive Principles of the Constitution is that there should be separation of the judiciary from the executive. The previous code was enacted in 1898, 75 years after that and 26 years after the attainment of independence, at a time when Directive Principles are getting important theoretically at least, should Parliament pass a legislation which goes contrary to the Directive Principles? Secondly, should Parliament make a provision that the law enacted by Parliament could be overridden by a State Government by a notification?

That should not be there. Only in respect of certain provisions this over-riding power is conferred on the State Government, i.e., with regard to the security proceedings which have always been condemned by everybody as one of the most pernicious and obnoxious provisions which have found a place in our criminal jurisprudence. So, we would say that sub-clause (a) of section 478 should not be pressed and it should not find a place in our law.

13 hrs.

श्री आर० बी० बड़े : अध्यक्ष महोदय, मैं दो मिनट लेना चाहता हूँ इसमें जहाँ उन्होंने कहा है कि न्याय सस्ता होना चाहिए— वहाँ स्थिति यह है कि जूडिशियल मैजिस्ट्रेट वहाँ से 40 मील दूर रहता है, कभी ड्राउट के मामले में व्यस्त है तो कभी फूलड्स के मामले में व्यस्त है; उन लोगों को तारीख पर 10-10 दिनेमेज को लेकर आना पड़ता है, जब कचहरी में पहुँचते हैं तो तारीख पड़ जाती है और 6-6 महीने तक तारीख पड़ती रहती है कहा जाता है कि साइब्र ड्राउट कोमेज में बिजी है, गडडे के गडडे-केमेज के बांध कर रखे रहते हैं, 1830 L.S.—4.

मैजिस्ट्रेट को कुरसत ही नहीं है। हर 15 दिन में वह 10-10 दिनेमेज को लेकर आता है। और वापस ले जाता है 6 रुपया भी अगर बर्न का किराया लगता है तो आप देखिये उसे न्याय कितना महंगा पड़ रहा है। कम से कम प्राविवासी क्षेत्रों में तो ऐसी स्थिति नहीं होनी चाहिये। इस लिये मैं आप से विनम्र करता हूँ कि आप इस को वापस ले लें।

**SHRI RAM NIWAS MIRDHA:** It is in consonance with the spirit of the directive principles regarding the separation of judiciary from the executive that we have incorporated some provisions in this Code so that some of the security proceedings that were formerly dealt with by the executive magistrates would now be handled by the judicial magistrates. In this respect we cannot just ignore the wishes of the State Governments. Because the situations differ from State to State we have thought it fit to incorporate this clause. This clause has sufficient safeguards. It says:

"if the State Legislature by a resolution so requires, the State Government may, after consultation with the High Court...."

I think these are two very salutary conditions and I do not think any State Legislature would lightly interfere with the general scheme of this Code. It is gratifying that this House is alert on the rights of the citizens and we hope that the State Legislative Assemblies would be no less so.

श्री मधु लिवये : अध्यक्ष महोदय, एक बात का खुलासा इन्होंने नहीं किया। आपने यह नहीं बताया कि यदि इस को काट दिया जाएगा तो क्या स्टेट लेजिस्लेचर्स इस के खिलाफ कोई कानून बना सकते हैं। सेंट्रल ला के, केंद्रीय विधियों के खिलाफ—



[श्री मधु सिन्घे]

जिलाफ आप को इस में दिक्कत क्या है—  
यह हम जानना चाहते हैं ?

**SHRI RAM NIWAS MIRDHA:** What I have said is that the power that is being given to the State Government is an enabling provision. If their State Legislature passes a resolution to this effect, then after consulting the High Court it could be done. We want that this power should be with the State Government. They should have the right to exercise their discretion in an area which is of their concern also

श्री मधु सिन्घे : अध्यक्ष महोदय, इनमें व्यवस्था का प्रश्न है। मैं आप की तबज़्जह आर्टिकल 254 की और दिलाना चाहता हूँ। मैं यह मानना क्या उठा रहा हूँ—क्या हम लोगों को यह जानने का अधिकार नहीं है कि संविधान और कानून की स्थिति क्या है? यदि ये सफाई नहीं दे सकें तो कानून मंत्री और एटार्नी जनरल को बुलाकर हमारा सन्तोष कराये, बिना ऐसा किये इस को पाम करना ठीक नहीं है। मैंने सीधा सवाल पूछा है—अगर उसमें से सब-क्लाज (ए) हटा दी जाती है तो क्या राज्य की विधान मंडलों को इसके विपरीत कानून पाम करने का अधिकार है—इस के बारे में आप क्या कहना चाहते हैं ?

**SHRI RAM NIWAS MIRDHA:** This is a subject in the Concurrent List and the State Legislature can amend this after taking the concurrence of the Central Government.

श्री मधु सिन्घे : अध्यक्ष महोदय, दि-  
क्रेट-इज-माउट-आफ-दी-रिंग । इसमें जल्दबाजी की जरूरत नहीं है।

**MR. SPEAKER:** No counter arguments. The position is that this is in the Concurrent List,

श्री मधु सिन्घे : अब स्थिति साफ हो गई है— यदि यह सदन चाहे तो संविधान में कोई रोक नहीं है। इस के विपरीत कोई कानून राज्य की विधान मंडल पास नहीं कर सकती है, यदि करेगी तो उस विधेयक को प्रेजि-डेन्ट के ऐमेन्ट के लिये रिजर्व किया जाएगा और प्रेसिडेन्ट का अर्थ आप ही है, आप ऐसा काम ही नहीं करेंगे क्योंकि सदन की इच्छा है, तो उसके विपरीत कैसे जायेंगे। इन्हें किये आप सीधा कहिये कि हम करना नहीं चाहते, डाइ-रेक्टिव प्रिन्सिपल पर हम प्रसन्न नहीं करना चाहते हैं। जहां माफ अतिरे, किसी को आउट में न छुपिये।

**SHRI RAM NIWAS MIRDHA:** I started my reply by saying that it is in consonance with the spirit of Directive Principles that we have introduced the changes. We do not want to put ourselves in a position where we have to confront the State Government on a matter like this. That is why we have provided an enabling thing. Why should the hon. Member presume that the State Legislature will be less zealous in guarding the right of the ordinary citizen than this House or the hon. Member himself?

**MR. SPEAKER:** Now, I put Amendment No. 86 moved by Shri Ram Niwas Mirdha to the vote of the House.

The question is:

Page 161, for the existing marginal heading, substitute: "Power to alter functions allocated to Judicial and Executive magistrates in certain cases".(86)

The motion was adopted.

**MR. SPEAKER:** The question is: "That Clause 478, as amended, stand part of the Bill".

The Lok Sabha divided:

Division No. 18)

(13.14 hrs.

Das, Shri Anadi Charan

## AYES

Das, Shri Dharnidhar

Achal Singh, Shri

Daschowdhury, Shri B. K.

Aga, Shri Syed Ahmed

Deshmukh, Shri K. G.

Agarwal, Shri Shrikrishna

Dhamankar, Shri

Ahiwar, Shri Nathu Ram

Dwivedi, Shri Nageshwar

Ambesh, Shri

Engti, Shri Biren

Azad, Shri Bhagwat Jha

Gandhi, Shrimati Indira

Aziz Imam, Shri

Ganesh, Shri K. R.

Bahunath Singh, Shri

Gangadeb, Shri P.

Bajpai, Shri Vidya Dhar

Garcha, Shri Devinder Singh

Banamali Babu, Shri

Ghosh, Shri P. K.

Banerji, Shrimati Mukul

Gill, Shri Mohinder Singh

Barman, Shri R. N

Godara, Shri Mani Ram

Barupal, Shri Panna Lal

Gogoi, Shri Tarun

Basumatari, Shri D

Gohain, Shri C. C.

Besra, Shri S. C.

Gokhale, Shri H. R.

Bhattacharyya, Shri Chapalendu

Gomango, Shri Giridhar

Bheeshmadev, Shri M.

Gowda, Shri Pampan

Bhuvarahan, Shri G.

Hari Singh, Shri

Bist, Shri Narendra Singh

Hashim, Shri M. M.

Chandrakar, Shri Chandulal

Ishaque, Shri A. K. M.

Chandrashekhara  
Shri T. V. Veerabasappa,

Jaffer Sharief, Shri C. K.

Chaturvedi, Shri Rohan Lal

Jeyalakshmi, Shrimati V.

Chawla, Shri Amar Nath

Jha, Shri Chiranjib

Chellachami, Shri A. M.

Jitendra Prasad, Shri

Chhotey Lal, Shri

Joshi, Shri Popatlal M.

Chhuttan Lal, Shri

Kadam, Shri Dattajirao

Daga, Shri M. C.

Kadam, Shri J. G.

Dalip Singh, Shri

Kafias, Dr.

Kale, Shri	Pandey, Shri Damodar
Kamble, Shri T. D.	Pandey, Shri Narasingh Narain
Kamla Kumari, Kumari	Pandey, Shri R. S.
Kapur, Shri Sat Pal	Pandey, Shri Sudhakar
Karan Singh, Dr.	Pandit, Shri S. T.
Kasture, Shri A. S.	Panigrahi, Shri Chuntamani
Kinder Lal, Shri	Paokaj Haokip, Shri
Kisku, Shri A. K.	Paswan, Shri Ram Bhagat
Kotoki, Shri Liladhar	Patel, Shri Arvind M.
Krishnan, Shri G. Y.	Patil, Shri Krishnarao
Krishnappa, Shri M. V.	Patil, Shri T. A.
Kushok Bakula, Shri	Pradhan, Shri Dhan Shah
Lakkappa, Shri K.	Pradhani, Shri K.
Lakshminarayanan, Shri M. R.	Qureshi, Shri Mohd. Shafi
Lutfal Haque, Shri	Raghu Ramaiah, Shri. K.
Mahajan, Shri Y. S.	Ram, Shri Tu mohan
Mandal, Shri Yamuna Prasad	Ramji Ram, Shri
Maurya, Shri B. P.	Rana, Shri M. B.
Mehta, Dr Mahipatray	Rao, Shri Jagannath
Mirdha, Shri Nathu Ram	Rao, Shri Pattabhi Rama
Mishra, Shri Bibhuti	Rathia, Shri Umed Singh
Mishra, Shri G. S.	Ravi, Shri Vayalar
Mishra, Shri Jagannath	Reddy, Shri P. Narasimha
Mohapatra, Shri Shyam Sunder	Roy, Shri Bishwanath
Mohsin, Shri F. H.	Rudra Pratap Singh, Shri
Munsi, Shri Priya Ranjan Das	Saini, Shri Mulki Raj
Murthy, Shri B. S.	Salve, Shri N. K. P.
Naik, Shri B. V.	Samanta, Shri S. C.
Negi, Shri Pratap Singh	Sanghi, Shri N. K.
Painuli, Shri Paripoornanand	Sarkar, Shri Sakti Kumar

Sathe, Shri Vasant

Satpathy, Shri Devendra

Savitri Shyam, Shrimati

Sayeed, Shri P. M.

Sethi, Shri Arjun

Shambhu Nath, Shri

Shankar Dayal Singh, Shri

Shankar Dev, Shri

Shankaranand, Shri B.

Shastri, Shri Raja Ram

Sher Singh, Prof.

Shinde, Shri Annasaheb P.

Shivnath Singh, Shri

Shukla, Shri B. R.

Shukla, Shri Vidya Charan

Siddayya, Shri S. M.

Siddheshwar Prasad, Shri

Singh, Shri Vishwanath Pratap

Sohan Lal, Shri T.

Suryanarayana, Shri K.

Swaminathan, Shri R. V.

Thakre, Shri S. B.

Tiwary, Shri D. N.

Tulsiram, Shri V.

Vekaria, Shri

Venkatasubbalah, Shri P.

Verma, Shri Ramsingh Bhai

Vikal, Shri Ram Chandra

Virbhadra Singh, Shri

Yadav, Shri Chandrajit

Yadav, Shri R. P.

## NOES

Bade, Shri R. V.

Bhattacharyya, Shri Dinen

Bhattacharya, Shri Jagadish

Bhattacharyya, Shri S. P.

Brahman, Shri Rattanlal

Chatterjee, Shri Somnath

Chowhan, Shri Bharat Singh

Dandavate, Prof. Madhu

Deb, Shri Dasaratha

Dutta, Shri Biren

Goswami, Shrimati Bibha Ghosh

Halder, Shri Krishna Chandra

Hazra, Shri Manoranjan

Joarder, Shri Dinesh

Joshi, Shri Jagannathrao

Krishnan, Shri M. V.

Lumaye, Shri Madhu

Mavalankar, Shri P. G.

Modak, Shri Bijoy

Mukherjee, Shri Samar

Mukherjee, Shri Saroj

Nayak, Shri Bakti

Pandeya, Dr. Laxminarain

Parmar, Shri Bhaljibhai

Ramkanwar, Shri

Rao Shrimati, B. Radhabia A.

Rao, Shri M. Satyanarayana

Reddy, Shri B. N.

Saha, Shri Ajit Kumar

Saha, Shri Gadadhar

Sen, Shri Robin

Shakya, Shri Maha Deepak Singh

Sharma, Shri R. R.

Viswanathan, Shri G.

Yadav, Shri G. P.

MR. SPEAKER: The result\* of the division is: Ayes—149; Noes—35.

*The motion was adopted.*

Clause 478, as amended, was added to the Bill.

Clause 479—(Case in which Judge or Magistrate is personally interested.)

MR. SPEAKER: Mr. Limaye, do you want to speak on Clause 479?

SHRI MADHU LIMAYE Yes, Sir

MR SPEAKER: I propose that we take up the held-over Clauses after Lunch Before that, we shall finish the other Clauses because there are no amendments to these Clauses

श्री मधु लिमये अध्यक्ष महोदय इस क्लॉज में मेरा बुनियादी विरोध नहीं है लेकिन इन्होंने जो स्पष्टीकरण दिया है, मैं समझता हूँ उसकी कोई आवश्यकता नहीं है क्योंकि अगर कोई मुल्जिम इसके बारे में वरिष्ठ अदालत के सामने जाये तो वरिष्ठ अदालत "पर्सनल इन्ट्रेस्ट" क्या होता है उसकी परिभाषा कर सकती है इसलिए स्पष्टीकरण की कोई आवश्यकता ही नहीं है। इसलिये मेरी मन्त्री महोदय से प्रार्थना है कि बिना स्पष्टीकरण के ही इस क्लॉज को पास किया जाये हमारा कोई एतराज नहीं है लेकिन स्पष्टीकरण मन जाँडिये।

SHRI RAM NIWAS MIRDHA: The explanation is very clear. The circumstances are mentioned. Still if the hon. Member feels that he should be regarded as being interested, if he thinks like that, that is a different matter.

MR. SPEAKER: There are no amendments to Clauses 479 to 484. So, I shall put them all together to the vote of the House.

The question is:

"That Clauses 479 to 484 stand part of the Bill."

*The motion was adopted*

Clauses 479 to 484 were added to the Bill.

MR SPEAKER: Now, we come to these held-over clauses. Of course, there is not going to be much discussion. Only time was given so that you may meet and discuss with the Minister. These held-over clauses will be taken up after lunch. But there would not be much discussion.

THE MINISTER OF PARLIAMEN-TARY AFFAIRS (SHRI K. RAGHU RAMAIAH): You have been good enough to say that there would be a discussion on floods. After this Bill is over, there is one item, Item 14—Coking and Non-Coking Coal Mines (Nationalisation) Amendment Bill which was passed by the Rajya Sabha. I consulted the Leaders of the Opposition as are available and they are willing that item 14 be taken up after this and before further consideration of the Approach to the Fifth Plan 1974-79.

MR SPEAKER: I hope you have no objection. So, item 14 will be taken up before item 13. Moreover, we are quite free to-day. We will take up the discussion on Gujarat floods for one hour after this.

SHRI DINEN BHATTACHARYYA: Not only Gujarat, there are floods in many other States as well.

SHRI N. K. SANGHI (Jalore): There are floods in Rajasthan and Madhya Pradesh also.

\*The following Members also recorded their votes:

AYES: Sarvshri Kartik Oraon and J. P. Dube;

NOES: Shri Mohammed Ismail.

**SHRI R. S. PANDEY** (Rajnandgaon): It is very good that you have allowed a discussion on floods. Apart from Gujarat, there are floods in other places like Madhya Pradesh also. You should allow only two two minutes to each Member.

**MR. SPEAKER:** Now, we adjourn to re-assemble after lunch at 2 15 p.m.

13.18 hrs.

The Lok Sabha adjourned for Lunch till fifteen minutes past Fourteen of the Clock.

The Lok Sabha reassembled after Lunch at nineteen minutes past Fourteen of the Clock

[MR DEPUTY-SPEAKER in the Chair]

CODE OF CRIMINAL PROCEDURE  
BILL—Contd.

CLAUSE 57—Contd.

**SHRI HUKAM CHAND KACHWAI** (Morena)—rose.

**MR. DEPUTY-SPEAKER:** We are in the midst of a clause. What do you want?

श्री हुकम चन्द कच्छवाय : उपाध्यक्ष महोदय, आज मैं सदन तथा सरकार का ध्यान एक महत्वपूर्ण विषय की ओर दिलाना चाहता हूँ। परमो उर्जेन में बाफी लाठी चार्ज हुआ और बहुत गैम छोड़ी गई। नाहे तीन मी के करीब लंग घायल हुए हैं। दग सम्बन्ध में चाहता हूँ कि सरकार की ओर में एक बक्तव्य आना चाहिये कि आखिर राज्य सरकार निष्क्रिय तथा उलनीन क्यों बनी हुई है ? वहाँ ऐसी परिस्थितिया पैदा हुई और निहत्थे मजदूरों पर पुलिस ने जो बर्बरता का व्यवहार दिखाया, उससे सदन को अवगत कराया जाये। (Interruptions).

**MR. DEPUTY-SPEAKER:** Order, order. I would request Members on this side to cooperate. He has made a statement. I have listened. If you say something on this side, another will say something on that side and a storm develops. Order please. Also we have finished with the consideration of the clauses except for three clauses which were held over. We shall take up those three clauses which were held over. What about Clause 57? Is there any agreed amendment?

I think there is no more that is to be submitted on this clause. I understand that Shri Madhu Limaye who raised the objections had met the Minister and they have agreed to something. I take up clause 57. There is an amendment—No. 193—to clause 57 that was moved by Shri Madhu Limaye. I shall put that amendment to the vote.

I would like the House to understand me. We are considering clause 57. This was held over because of Shri Limaye's objection. Then it was brought to my notice that you and the Minister had met. After that you had agreed to certain amendments as a result of which you had tabled an amendment to Clause 57. You have moved amendment No. 193 to clause 57. I shall put it to the vote again so that there is no confusion. This was told to me; I am putting it to the vote. It is for the House to reject it.

**SHRI MADHU LIMAYE:** Sir, I am withdrawing it.

**MR. DEPUTY-SPEAKER:** Does the hon. Member have the leave of the House to withdraw the amendment?

**SEVERAL HON. MEMBERS:** Yes. Sir.

*Amendment No. 193 was, by leave, withdrawn.*

**MR. DEPUTY-SPEAKER:** Now, I shall put Clause 57 to the vote.

[Mr. Deputy-Speaker]

The question is:

"That Clause 57 stand part of the Bill".

*The Motion was adopted.*

*Clause 57 was added to the Bill.*

**Clause 76—**(Person arrested to be brought before court without delay.)

**MR. DEPUTY-SPEAKER:** There are two amendments to clause 76. Are you moving, Mr. Mirdha?

**SHRI RAM NIWAS MIRDHA:** I beg to move:

"Page 22,—

*after line 35, insert—*

"Provided that such delay shall not, in any case, exceed twenty-four hours exclusive of the time necessary for the journey from the place of arrest to the Magistrate's Court." (285)

**MR. DEPUTY-SPEAKER:** I shall put amendment No. 285 to the vote.

The question is:

"Page 22,—

*after line 35, insert—*

"Provided that such delay shall not, in any case, exceed twenty-four hours exclusive of the time necessary for the journey from the place of arrest to the Magistrate's Court." (285)

*The motion was adopted.*

**MR. DEPUTY-SPEAKER:** The question is:

"That Clause 76, as amended, stand part of the Bill".

*The motion was adopted.*

*Clause 76, as amended, was added to the Bill.*

श्री कृष्ण लिवले: जपाध्यक्ष महोदय, मैं आप को बधाई देना चाहता हूँ। आपकी वजह से हम लोगों को बौक्का मिला है इन सशोत्रन को पास करने का। आपने रुबद न दी होती ना यह पाम नहीं होता।

**MR. DEPUTY-SPEAKER:** Thank you very much. Well, sometimes, the Chair also deserves some bouquets. It has been receiving brick-bats all the time. Towards the end of the session, some bouquets are also necessary.

**PROF. MADHU DANAVATE:** You have put on the ear-phones. Otherwise you would have said 'order, order'.

**Clause 437 —Contd.**

**MR. DEPUTY-SPEAKER:** Now we take up clause 437. Shri Mirdha has given notice of his amendment. Are you moving?

**SHRI RAM NIWAS MIRDHA:** I beg to move:

Page 148, line 28, *after the word "Court" insert:*

"other than the High Court or Court of Session" (287)

**MR. DEPUTY-SPEAKER:** I shall put amendment No. 287 to clause 437 to the vote.

**SHRI DINESH JOARDER:** What about my amendments to clause 437?"

**MR. DEPUTY-SPEAKER:** Just a minute. Do you want to speak?

All right. I thought you have all agreed.

**SHRI DINESH JOARDER:** Clause 437 provides the procedure and cases where bail may be taken in case of non-bailable offences. It was the pleasure of the House that we should consult with the hon. Minister Shri Mirdha on this and come to a mutual

agreement to see if we could do something better in regard to the procedure laid down in clause 437. In certain aspects, we do agree to the amendment moved by Shri Mirdha. But there are some other provisions at which we would like to record our resentment and discontentment. That is why I have risen to say a few words in regard to this clause.

There are certain objectionable words in this clause. For instance, we find in this clause:

"When any person accused of or suspected of the commission of any non-bailable offence is arrested or detained without warrant by an officer in charge of a police station or appears or is brought before the court, he may be released on bail....".

At the same time, it is also stated:

"...but he shall not be so released if there appear reasonable grounds for believing that he has been guilty of an offence punishable with death or with imprisonment for life."

At the time of investigation, when the case has not been tried and judgment pronounced, how can the accused person be termed as guilty of an offence. The word 'guilty' is highly objectionable. During investigation, no accused person should be termed as being guilty of an offence.

Similarly, the discretionary power, of the court that it may be released the person on bail, is also interfered with, because in the next sentence, it has been stated that the accused person shall not be so released. I have great objection to this word 'shall'.

So, I have moved an amendment which seeks to omit the words 'shall' and 'guilty' appearing in sub-clause (1) of this clause and substitute other words in their places.

Further, the granting of bail in cases of non-bailable offences has been made very rigid to a certain ex-

tent. I would request the hon. Minister to omit the wordings of the clause so that the provisions for granting bail could be liberalised as far as possible.

Recording this note of protest, I support the amendment brought forward by Shri Mirdha, and I move my amendments also, though I do not press for a division on them.

श्री राम चन्द्र शर्मा : उपाध्यक्ष महोदय, मंत्री महोदय ने जो एमेन्डमेंट 257 पढ़ा किया; मुझे लगता है कि या तो इस में कोई भ्रम हो गई है और या फिर मेरे समझने में गलती हुई। इस एमेन्डमेंट के द्वारा क्लॉज 437 में हार्ट कोर्ट और कोर्ट आफ सेशन का जुरिस्डिक्शन हटा दिया गया है, क्योंकि इस एमेन्डमेंट में शब्द "कोर्ट" के बाद "अथवा दैन दि हाई कोर्ट आफ सेशन" जोड़ने की बात नहीं गई है। मंत्री महोदय इस को पुनः देख लें। क्लॉज 436 वेलवेल के लिए है और क्लॉज 437 नान-बैलेबल के लिए है।

श्री राम निवास शर्मा : क्लॉज 439 देख लीजिए।

SHRI R. R. SHARMA: Thank you.

MR. DEPUTY-SPEAKER: Shri Joarder says that he does not want to press his amendments. Does he mean to say that he wants to withdraw them? Or I will just put them to the vote of the House.

First, I will put Shri Mirdha's amendment to vote.

The question is:

Page 148, line 28, after the word "Court" insert—

"other than the High Court or Court of Session" (287)

The motion was adopted.



MR. DEPUTY-SPEAKER: I will now put all the rest of the amendments by Shri Joarder to vote.

*Amendments Nos. 144, 145 and 246 to 258 were put and negatived.*

MR. DEPUTY-SPEAKER: The question is:

"That clause 437, as amended, stand part of the Bill".

*The motion was adopted.*

*Clause 437, as amended, was added to the Bill.*

MR. DEPUTY-SPEAKER: To the First Schedule, there are quite a good number of amendments by Shri Mirdha.

SHRI RAM NIWAS MIRDHA: They are all verbal in nature

I move:

Page 167, line 25 and Page 163, line 15, against sections 124A and 129, in column 4, for "Cognizable", substitute "Ditto". (87)

Page 168 line 21, against section 131, in column 5, for "Ditto", substitute "Non-bailable". (88)

Page 171, line 5, against section 153A, in column 2, for "places", substitute "place". (89)

Page 171, line 25, against section 160, in column 4, for "Cognizable", substitute "Ditto". (90)

Page 173, line 22, against section 172, in column 2, for "order", substitute "other". (91)

Page 176, lines 10-11, against section 177, for "Imprisonment for 6 months, or fine of 1,000 rupees, or both", substitute "Ditto". (92)

Page 175, lines 20-21, against section 179, for "Simple imprisonment for 6 months, or fine of 1,000 rupees, or both", substitute "Ditto". (93)

Page 176, against section 185, in column 2,—

(i) line 12, for "legal", substitute "a legal",

(ii) line 15, for "obligations", substitute "obligations incurred". (94)

Page 180, line 23, against section 213, in column 3, for "years", substitute "years and fine". (95)

Page 181, line 14, against section 215, in column 2, for "of", substitute "by". (96)

Page 181, line 22, against section 216, in column 2, for "not", substitute "not for". (97)

Page 183, lines 16-17, against section 225, in column 3, for "Imprisonment for 2 years, or fine, or both", substitute "Ditto". (98)

Page 184 line 24, in the heading of Chapter XII, for "Coins", substitute "Coin". (99)

Page 186, line 15, against section 246, in column 2, for "weight" substitute "the weight". (100)

Page 187, line 16, against section 256, in column 2, for "years", substitute "years and fine". (101)

Page 189, lines 21-22, against section 276, for "Imprisonment for 6 months, or fine of 1,000 rupees, or both", substitute "Ditto". (102)

Page 191, line 11, against section 292, in column 3, for "offence", substitute "conviction". (103)

Page 191, line 14, against section 293, in column 3, for "Ditto", substitute "On first conviction, with imprisonment for 3 years, and with fine of 2,000 rupees, and in the event of second or subsequent conviction, with imprisonment for 7 years, and with fine of 5,000 rupees". (104)

Page 191, line 15, against section 294, in column 6, for "Any Magistrate", substitute "Ditto". (105)

Page 196, line 15, against section 345, in column 4, for "Cognizable", substitute "Ditto". (106)

Page 199, line 7, against section 374, in column 4, for "Cognizable", substitute "Ditto". (107)

Page 200, line 20, against section 388, in column 2, for "or", substitute "of". (108)

Page 206, line 9, against section 440, in column 3, for "3", substitute "5". (109)

Page 210, line 22, against section 482,—

(i) in column 4, for "Non-cognizable", substitute "Ditto";

(ii) in column 5, for "Bailable", substitute "Ditto". (110)

Page 212, line 4, against section 489D, for "possessing instruments", substitute "possessing machinery, instrument". (111)

Page 211, line 22, against section 504, for "3", substitute "2". (112)

Page 214, line 24, against section 505, for "2", substitute "3". (113)

**SHRI DINESH JIARDER: I move:**

Page 164, lines 14 to 17, in column 4,—

omit "According as offence abetted is cognizable or non-cognizable." (223)

Page 164, lines 14 to 17, in column 5,—

omit "According as offence abetted is bailable or non-bailable." (224)

Page 164, line 18, in column 4,—  
omit "Ditto" (225)

Page 164, line 18, in column 5,—  
omit "Ditto" (226)

As a matter of principle, I have always opposed any distinction between bailable and non-bailable offences and cognizable and non-cognizable offences. That is why I have suggested that wherever this distinction appears in cols. 4 and 5 of the First Schedule, this should be removed. As a matter of principle, granting of bail should be the rule and rejection should not be there at all, or at least it should be the exception. This is my request to the House that no offences should be categorised as cognisable and non-cognisable and bailable and non-bailable. There should be a general for all offences with the same rule for granting or refusing bail. Hence my amendments.

श्री राम रतन शर्मा : उपरोक्त महोदय, पेज 177 पर सेक्शन 192 के आगे लिखा है कि पनिशमेंट "इमप्रिजनमेंट फार 7 यीअर्ज एंड फाइन" और "मैजिस्ट्रेट आफ दि फुट क्लास" के द्वारा ट्रायवल है और पेज 178 पर सेक्शन 201 के आगे लिखा है कि पनिशमेंट "इमप्रिजनमेंट फार 7 यीअर्ज एंड फाइन" है और वह "कोर्ट आफ मैजिस्ट्रेट" के द्वारा ट्रायवल है। दोनों सेक्शन्स में पनिशमेंट एक ही है, अर्थात् "इमप्रिजनमेंट फार 7 यीअर्ज एंड फाइन", लेकिन एक फुट क्लास मैजिस्ट्रेट द्वारा ट्रायवल है और दूसरा कोर्ट आफ मैजिस्ट्रेट द्वारा ट्रायवल है। मैं चाहता हूँ कि मंत्री महोदय इस को साफ कर दें। मेरे क्वेश्चन में यह इम्प्लिकेशन की गलती रह गई है।

**SHRI RAM NIWAS MIRDHA: I do not have anything to say.**

**MR. DEPUTY-SPEAKER: The question is:**

Page 167, line 25 and Page 168, line 15, against section 124A and 129, in column 4, for "Cognizable", substitute "Ditto". (87)

[Mr. Deputy-Speaker]

Page 168, line 21, against section 181, in column 5, for "Ditto", substitute "Non-bailable". (88)

Page 171, line 5, against section 153A, in column 2, for "places", substitute "place". (89)

Page 171, line 25, against section 160, in column 4, for "Cognizable", substitute "Ditto". (90)

Page 173, line 22, against section 172, in column 2, for "order", substitute "other". (91)

Page 175, lines 10-11, against section 177, for "Imprisonment for 6 months, or fine of 1,000 rupees, or both" substitute "Ditto". (92)

Page 175, lines 20-21, against section 179, for "Simple imprisonment for 6 months, or fine of 1,000 rupees, or both", substitute "Ditto". (93)

Page 176, against section 185, in column 2,—

(i) line 12, for "legal", substitute "a legal";

(ii) line 15, for "obligations" substitute "obligations incurred". (94)

Page 180, line 23, against section 213, in column 3, for "years", substitute "years and fine". (95)

Page 181, line 14, against section 215 in column 2, for "of", substitute "by". (96)

Page 181, line 22, against section 216, in column 2, for "not", substitute "not for". (97)

Page 183, lines 16-17, against section 225, in column 3, for "imprisonment for 2 years, or fine, or both", substitute "Ditto". (98)

Page 184, line 24, in the heading or Chapter XII, for "Coins", substitute "Coin". (99)

Page 186, line 15, against section 246, in column 2, for "weight" substitute "the weight". (100)

Page 187, line 16, against section 256, in column 2, for "years", substitute "years and fine". (101)

Page 189, lines 21-22, against section 276, for "Imprisonment for 6 months, or fine of 1,000 rupees, or both", substitute "Ditto". (102)

Page 191, line 11, against section 292, in column 3, for "offence", substitute "conviction". (103)

Page 191, line 14, against section 293, in column 3, for "Ditto", substitute "On first conviction, with imprisonment for 3 years, and with fine of 2,000 rupees, and in the event of second or subsequent conviction, with imprisonment for 7 years, and with fine of 5,000 rupees". (104)

Page 191, line 15, against section 294, in column 6, for "Any Magistrate", substitute "Ditto". (105)

Page 196, line 15, against section 345, in column 4, for "Cognizable", substitute "Ditto". (106)

Page 199, line 7, against section 374, in column 4, for "Cognizable", substitute "Ditto". (107)

Page 200, line 20, against section 388, in column 2, for "or", substitute "of". (108)

Page 206, line 9, against section 440, in column 3, for "3", substitute "5". (109)

Page 210, line 22, against section 482,—

(i) in column 4, for "Non-cognizable", substitute "Ditto".

(ii) in column 5, for "Bailable", substitute "Ditto". (110)

Page 212, line 4, against section 489D, for "possessing instruments", substitute "passing machinery, instrument". (111)

Page 214, line 22, against section 504, for "3", substitute "2". (112)

Page 214, line 24, against section 505, for "2", substitute "3". (113)

*The motion was adopted.*

MR. DEPUTY-SPEAKER: I shall now put the other amendments, moved by Shri Joarder, to vote.

*Amendments Nos. 223 to 226 were put and negatived.*

MR. DEPUTY-SPEAKER: The question is:

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

*The motion was adopted.*

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

#### *The Second Schedule*

*Amendments made:*

Page 222, line 9, FORM No. 11, for "seals", substitute "seals, or". (114)

Page 223, line 30, FORM No. 15, for "Offier", substitute "Officer". (115)

Page 226, after line 30, FORM No. 20, insert "Or". (116)

Page 229, line 15, FORM No. 25, for "to decide" substitute "do decide". (117)

*(Shri Ram Niwas Mirdha)*

MR. DEPUTY-SPEAKER: The question is:

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

*The motion was adopted.*

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

*Clause 1—(Short title, extent and Commencement.)*

*Amendments made:*

Page 1, line 5, for "1972" substitute "1973". (11)

Page 2, line 10, for "1st day of July, 1973", substitute "1st day of January, 1974." (13)

*(Shri Ram Niwas Mirdha)*

SHRI RAM NIWAS MIRDHA: Sir, with your permission I am moving my amendment No. 286, which is in substitution of my amendment No. 12.

I move:

Page 1, for lines 8 to 11 and page 2 for lines 1 to 4, substitute—

"Provided that the provisions of this Code, other than those relating to Chapters VIII, X and XI thereof shall not apply—

(a) to the State of Nagaland,

(b) to the tribal areas,

but the concerned State Government may, by notification, apply such provisions or any of them to the whole or part of the State of Nagaland or such tribal areas, as the case may be, with such supplemental, incidental or consequential modifications as may be specified in the notification", (286)

MR. DEPUTY-SPEAKER: Where is amendment No. 286? I understand you gave notice of the amendment a little while ago. I think you better explain your amendments, because the office seems to think that there seems to be some kind of confusion and conflict with your amendments which you have moved.

**SHRI RAM NIWAS MIRDHA:** This is in sub-clause (2) of clause 1. This is of a very verbal nature. It reads :

Page 1, for lines 8 to 11 and page 2 for lines 1 to 4, substitute—

“Provided that the provisions of this Code, other than these relating to Chapters VIII, X and XI thereof, shall not apply—

(a) to the State of Nagaland,

(b) to the tribal areas,

but the concerned State Government may, by notification, apply such provisions or any of them to the whole or part of the State of Nagaland or such tribal areas, as the case may be, with such supplemental, incidental or consequential modifications as may be specified in the notifications”, (286)

One word I change. That is “but”, which is a drafting improvement. Then “apply such provisions or any of them”, should be added. Our draftsmen have advised us that this is a better provision.

**MR. DEPUTY SPEAKER:** At the last moment when things are done in a hurry, it is difficult to proceed.

**SHRI MADHU LIMAYE:** Indecent haste to move the Bill, and pass it.

**MR. DEPUTY SPEAKER:** I will put this amendment to the House.

The question is :

Page 1, for lines 8 to 11 and page 2 for lines 1 to 4, substitute—

“Provided that the provisions of this Code, other than those relating to Chapters VIII, X and XI thereof, shall not apply—

(a) to the State of Nagaland,

(b) to the tribal areas,

but the concerned State Government may, by notification, apply such provisions or any of them to the whole or part of the State of Nagaland

or such tribal areas, as the case may be, with such supplemental, incidental or consequential modifications as may be specified in the notification”, (286)

*The motion was adopted.*

**MR. DEPUTY SPEAKER:** 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.

**The Enacting Formula:**

**SHRI RAM NIWAS MIRDHA:** I move :

Page 1, line 1, for “Twenty-third”, substitute “Twenty-fourth”. (10)

**MR. DEPUTY SPEAKER:** The question is :

Page 1, line 1, for “Twenty-third”, substitute “Twenty-fourth”. (10)

*The motion was adopted.*

**MR. DEPUTY SPEAKER:** 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.*

**THE MINISTER OF PARLIAMENTARY AFFAIRS (SHRI K. RAGHU RAMAIAH):** As I explained to some hon. Members opposite, one of the clauses, No. 125, is under re-consideration and I request that this discussion might be taken up after the ‘food discussion’ is over; that will give us some time to consider it. I have already told the gentleman here.

**MR. DEPUTY SPEAKER :** There is a request from the Government side that they would like to have a second look at clause 125.... (Interruptions). They would like to have a little time and therefore they would like the further consideration of the Bill to be held over.

श्री शम्भू सिन्हा उपाध्यक्ष महोदय, यह 125 का जो विषय है, मुलेमान मंड, शमीम प्रॉग मेरे हुम्मे नाथक दारने ने शुक्र से ही इस पर अपना एतराज प्रस्तुत किया था। लेकिन उस वक़्त मरगाह ने मुना नहीं। अब देख रहे हैं कि उत्तर पदम के चुनाव में मुसलमानों को वाट पर तो वही खराब अम्पर नहीं पड़ेगा। इस का दृष्टि में खूब कर ये नई बातों को ले कर आए है इदिगा जी के कहते पर। तो मेरा इनता ही कहना है, मेरा विरोध नहीं है। शमीम साहब से मेरा इत्फ़ाक है। लेकिन यह नीति समझ में नहीं आती है कि मुसलमानों को क्या हमेशा बोटर की दृष्टि से ही देखा जायेगा? कभी इमान की दृष्टि से भी उन को देखा जायेगा क्या? क्या कभी मुसलमानों को इस देश में इमान की नज़र से देखा जायेगा या नहीं या हमेशा बोटर की नज़र से देखा जायेगा? इसलिए जहाँ तक शमीम साहब की राय है मैं उस से सहमत हूँ। लेकिन इस को पहले आप को करना चाहिये था।

दूसरी बात यह बता दें कि किन निबन्धों के अनुसार पास किए गए क्लॉज पर हम पुनर्विचार कर सकेंगे क्योंकि आप जो कार्यवाही करेंगे वह बादशा के लिए भी प्रिसीडेंट

बन जायेगी। 125 के बारे में हमें एतराज नहीं है। आप अवश्य पुनर्विचार कीजिए। लेकिन श्रीर बहुत से क्लॉज हैं 144, 106, 108, 109, 110, श्रीर एक श्रीर दफा है चाजेंज के बारे में जिस के ऊपर बोलने का भी मौका हम लोगों को नहीं मिला। तो अगर इन सभी खतरनाक क्लॉज के ऊपर पुनर्विचार करने की छूट मदन को मिलेगी तो हम को क्या एतराज है। 125 के बारे में? कोई एतराज तो नहीं। मैं शमीम साहब से इन मामलों में क्या मतलब है कि प्रथम मुसलमान परसलज का कोई परिचर्चन करना है तो ब्रैव डीन में क्यों किया जाये? उन का रजामन्दी में होना चाहिए। यह मेरी पहल में गय है। उम्मान मुझे यह एनेक्शन टैक्टिस इस में अच्छा नहीं लग रही है। उम्मान के नाते उन को जो मांग है उन को आप पूरा करिए। लेकिन यह जो आप कर रहे है यह बिल्कुल गलत है श्रीर अगर करने है तो बाकी जो इममे दमनकारी क्लॉज है उन के ऊपर भी हमें पुनर्विचार करने का मौका मिले, कोई नियम या प्रक्रिया ऐसी बनायी जाये जिस के अन्दर पास किए हुए क्लॉज के ऊपर हम पुनर्विचार कर सकें।

*Some Hon. Members rose.*

**MR. DEPUTY-SPEAKER:** Is there any need for a discussion on this?

**SHRI DINEN BHATTACHARYYA** (Serampore): With regard to the Government's decision to reconsider that clause, the point is this. You see how they are behaving with the Muslim sections in our country. At the time when this clause was considered, they did not mind it; Shri Shamim raised that point at that

[Shri Dinen Bhattacharyya]

time. It was not accepted by the hon. Minister. At the time of elections you are prepared to reconsider. There is a clause which goes against the Directive Principles of the Constitution. Did you consider that? We have tabled 400 amendments; you did not have the courtesy to accept one of them. Mr. Joarder and Mr. Limaye and others are fighting some of these clauses; you did not concede a single amendment. You are asking us again and again to do this and to do that. We are not against that point mentioned by you. (Interruptions)

श्री दिनेश ब्रह्म शर्मा (श्रीनगर) : जनता में जो भी मत निम्न सी बातें हैं 100 फी.दी इनफॉर्मेशन कि एम.एल.ए. को वोटिंग जस्टिस समझना चाहिए, लेकिन निर्णय वोटिंग ही नहीं, समझना चाहिए वोटिंग होने में पहले वह एम.एल.ए. है, उस के कुछ मन्तव्य है उस को कुछ सुनना है, उन को रखा रखना चाहिए। लेकिन एक बात पर मैं धाडा सा लगाया करना चाहता हूँ— जो इन्फॉर्मेशन हम मुद्रण की सरकार पर है, वह बहुत ही एम.एल.ए. की हर सियासी जमायत पर है। इस लिए मैं तमाम सियासी जमायतों से गुजरातिश करूंगा—आइन्दा भी और इस वक्त भी—इस बात का जरूर ख्याल रखें कि उस की समस्या को, उस की मुश्किलों को, उसके दुख दर्द को इमानी मत पर जावे। यह मही है कि हुकुमत की तबज्जह कई बार इस पर दिखाई गई कि इस तरह का कानून पास करने से मुस्लिम परमंतल ला वा इन्टरफियरेस होता।, ये ख इबाहीम मुलेमान सेठ साहब ने कई बार अपनी तकरीरों में इस बात का जिक्र किया था, लेकिन उस को नहीं माना

जमा। : मैंने इस किलिमिने में कभी-कभी को की और मुझे मायूस हुआ कि कानूनमिन्स्ट्री ने भी यह कन्सेट किया था कि इस तरह से इस कानून को पास करने से मुस्लिम परमंतल ला में इन्टरफियरेस होगा और यह उन बयानात के खिलाफ होगा जो हुकुमत ने, ला मिनिस्टर ने बार बार दिये है कि मुस्लिम परमंतल ला में इन्टरफियरेस नहीं किया जायेगा।

अब मैं मधु निमये जी यात्र बाकी तमाम बातों में सुनो। ज वरुणा कि इन एम.ए. को हुकुमत का जस्टिस के मांगने का लेक्चर एन्ट्रावर्सन न बनाये, स्या। इमना कानून मुस्लिमानों के परमंतल ला से है। इस में एन्ट्रावर्सन की हानि चाहिये। फारसी मंगल बहावन है—देश प्रायद दुस्मन प्रायद। यह सरकार इमना बेअवल के काम करती है, लेकिन मंगल आज एम.ए. का आया है कि इस बेअवल सरकार को कुछ बक्त पहले अवाल शा गर्द, हम लिये हम को इस का खैर-मकदम करना चाहिये।

[شہری شمیم احمد شمیم (سرپرست)]: جناب۔ مجھے شہری مدھر لہٹے کی اس بات سے 100 فیصدی اتفاق ہے کہ مسلمان کو ووٹر ضرور سمجھنا چاہئے۔ لیکن صرف ووٹر ہی نہیں سمجھنا چاہئے، ووٹر ہونے سے پہلے وہ ایک انسان ہے اسکے کچھ مسائل ہیں۔ اس کے کچھ دکھ درد ہیں۔ ان کا خیال رکھنا چاہئے لیکن ایک بات پر مہربان ہوؤ! ما روڈ نہ کرنا چاہتا ہیں۔ جو الزام اس ملک کی سرکار پر ہے۔ وہ بہت حد

تک اس ملک کو د - ہاسی جماعتی  
 پر بھی ہے - اس لئے میں تمام ہاسی  
 جماعتوں سے گزارش کروں گا . آئندہ یہی  
 اور اس وقت بھی اس بات کا ضرور  
 خیال رکھیں کہ مسئلہ کو اس  
 کی مشکلوں کو اس کے ذمہ دہ  
 کو انسانی سطح پر جانچیں - یہ  
 صحیح ہے کہ نوجہ کئی بار اس پر  
 دلائل کئی کہ اس طرح کا قانون پاس  
 کرے سے مسلم پرسنل لا کا انٹرفیرنس  
 ہوگا - شیخ ابراہیم سلیمان سہتہ  
 صاحب نے کئی بار ایسی تقریروں میں  
 اس بات کا ذکر کیا تھا ، لیکن اسکو  
 نہیں مانا گیا - میں نے اس سلسلے  
 میں مزید کچھ کی اور مجھے معلوم ہوا  
 کہ لا ملسٹری نے یہ صلح دی تھی کہ  
 اس طرح سے لا کو پاس کرنے سے مسلم  
 پرسنل لا میں انٹرفیرنس ہوگا اور یہ  
 ان ہانٹ کے خلاف ہوگا جو حکومت  
 نے لا ملسٹری نے بار بار اٹوٹے ہوں کہ  
 مسلم پرسنل لا میں انٹرفیرنس نہیں  
 کیا جائے گا -

اب میں مدعو لیٹری جی اور ہائی  
 رام دوستوں سے گزارش کروں گا کہ اس  
 ایشو کو دوسرے فلورز کے معاملے کو  
 کر کٹوریوشل نہ بنائیں کہونکہ اس کا  
 تعلق مسلمانوں نہ پرسنل لا ہے -  
 اس میں کٹوریو سی نہیں ہونی چاہئے -  
 فارسی میں ایک کہاوت ہے دیر آید  
 درست آید - یہ سزاؤں ہوجہ ہے عدلی  
 کے کام کوئی ہے لیکن آج ایک ایسا  
 1890 LS-8

چانس آیا ہے کہ اس کے عقل سزاؤں  
 کو کچھ وقت پہلے عقل آگئی اس  
 لئے ہم کو اس کا خیر مقدم دینا  
 چاہئے -

श्री राज एतन वर्मा . उपाध्यक्ष महोदय,  
 ज्ञाप्ता फौजदारी किसी जमायत, किसी  
 धर्म और किसी मजहब का, ले कर नहीं  
 बनाया गया और क्लॉज 125 का, जब इम  
 मदन में पास किया तो काफी संव-मम  
 कर, विचार-विमर्श करने के बाद पास किया ।  
 श्रीमान्, मुझे को आश्चर्य है कि किसी परसनल  
 ला की बात यहाँ पर क्यों लाई जाती है ?  
 स्त्री चाहे मुसलमान की ही अथवा हिन्दू  
 की हो वह स्त्री है । यदि उसे बगैर अपराध  
 छोड़ा जाता है तो उसे मेन्टेन किया जाना  
 चाहिये । उसे केवल धर्म एवं नीति के  
 के आधार पर निर्वाह भत्ते (Maintenance  
 Allowance) से पृथक नहीं किया जा  
 सकता ।

एक बात बहुत ही भावनात्मक कही  
 है—लॉरडन उस के जो महत्वपूर्ण पहलू  
 इम्बाल्ड है उस को नहीं देखा गया छोटा  
 बच्चा, इलेजिमिनेट चाइल्ड अथवा लेजिमिनेट  
 चाइल्ड को मेन्टेन करने के लिये अगर कोई  
 स्पीडी प्रोसीजर रखना चाहे तो इस से हिन्दू  
 प्र. . मुसलमान की बान उठाई जायेगी ।

MR. DEPUTY-SPEAKER: At the  
 moment, the main question is whether  
 we should hold over the passing  
 of this Bill in view of the fact that  
 the Government wants to reconsider  
 clause 125. You can make your  
 submissions at that time.

श्री राज एतन वर्मा श्रीमान्, यह  
 समय निकल गया । अगर अब कोई  
 प्राप्तीजन बदलना चाहते हैं तो किस प्रोसीजर



[श्री राम रतन शर्मा]

या प्रॉक्टिस के अन्तर्गत पर करना चाहते हैं —  
आप किस नियम के अन्तर्गत ऐसा करेंगे।

MR DEPUTY-SPEAKER: We are concerned with the procedure.

SHRI SOMNATH CHATTERJEE: Clause 125 has already been passed while the House has been considering this Bill clause by clause Under-rule 89 the Speaker may, if he thinks fit, postpone the consideration of a clause. But how can this apply when the clause has already been passed. So far as the rules are concerned, there is no provision for putting in an amendment in respect of a clause which has been passed. Secondly, we do not know what is the proposed amendment. There are certain assumptions about certain provisions which are going to be applied to certain communities. We must know what the amendments are before we could even consider our attitude. We do not know what amendments are going to be proposed. Although this clause was passed last Saturday, till 3 O' Clock today we do not know the thinking of the Government on this matter. Then, how can we do it under the rules unless the rules are suspended? Firstly, we must know the thinking of the Government.

MR. DEPUTY-SPEAKER: I think the situation procedurally is not as simple as it appears to be. I would like the House to consider this very coolly and very calmly. Whatever I do here must not be irregular. At least I cannot be a party to any irregularity. We must do things in a regular way. Government have come forward with this suggestion that they would like postponement of the consideration and passing of the Bill in view of the fact that they would like to have a second look at one clause that has been passed. I think that is a very legitimate thing. It shows their concern that certain things should not be done in a hurry. It is also true that we have gone through such a long Bill in a hurry. In any case, there are difficulties this way

and that way. According to the rules, in the first place this clause has been passed; the House has finished with it. If at all this clause has to be reconsidered, nothing stands in the way of the Government to come forward with a motion to say that in view of certain things this clause may be reconsidered. They can bring forward a motion on anything. But here the problem arises because here is a definite rule in the Rules of procedure, namely, rule 338, which says:

"A motion shall not arise a question substantially identical with one on which the House has given a decision in the same session."

So, unless this rule is suspended, I do not know whether under the rules you can bring this motion that this clause has to be reconsidered. I am just pointing out to the Government the procedure. But the House is the master of its own procedure; it can suspend the rules, it can do this or that. This is the position.

SHRI DINESH JOARDER: Since many of the provisions of this Bill require detailed consideration, we requested both the Home Minister and the Minister of Parliamentary Affairs that the consideration of this Bill should be postponed till the next session. Yet, they hurried through not only clause 125 but many other clauses which now require reconsideration by the Minister as well as other Members. So, I would request the Minister that the passing of this Bill should be postponed now and it should be taken a fresh in the next session. The Minister should call all the opposition leaders and other interested Members of Parliament to reconsider not only this clause but other stringent and oppressive measures and then come to a consensus so that this Bill can be passed unanimously in the next session.

SHRI G. VISWANATHAN: Now Government want to reconsider clause 125, which has already been pas-

sed in this House. For that purpose they want adjournment of this debate for one hour. If they want postponement, if they want to reconsider any provision, then they will have to circulate the amendments.

MR. DEPUTY-SPEAKER: First it will have to be postponed.

SHRI G. VISWANATHAN: We want to know the amendment first and then consider it. So far as procedure is concerned, unless rule 338 is overcome, it cannot be taken immediately. The Minister has to move first for suspension of the rules and then he has to move for the adjournment of the debate. It is legitimate for us to ask then whether the other clauses to which the opposition has taken objection would also be reconsidered along with clause 225. It is the usual policy of the Government to act in a hurry and regret later. Take the case of the Aligarh Muslim University Act. They rushed through it and then they had second thoughts. In the case of Mulki Rules, even though we opposed it, they passed it in indecent haste and now they are in the soup. It is better to postpone it, take enough time to consider it and then bring it before the House.

श्री राम रत्न शर्मा मेरी प्रार्थना है इसको पोस्टपोल करे अगले सेशन में लावें तब तक इसको मोच समझ ले क्योंकि इसमें कोई जल्दी नहीं है. एक जाया फीजदारी पहले से मौजूद है जिसकी तहत काम चल रहा है। इस बिल को अभी पाम करने की कोई जरूरत नहीं है, इसके लिए समय दिया जाये और सोच समझ कर अगले सेशन में लाया जाये।

PROF. MADHU DANDAVATE (Rajapur): The only way is to suspend the rules. In that case there will be no difficulty.

श्री मधु लिम्बेय में चाहता हूँ कि आप ऐसी व्यवस्था दे जिसमें बिम्कुल जल्द-बाजी न हो, पक्षपात न हो, और जितने इसमें जो खराब क्लोज़ है

उन सभी पर पुनर्विचार करने का मौका मिले। यह सभी लोगों के राय है। 125 के बारे में दा राय नहीं है।

MR. DEPUTY-SPEAKER: Has the Minister anything to say on this?

SHRI K. RAGHURAMAIAH: The consideration of this Bill should be postponed for an hour.

श्री मधु लिम्बेय : पहले पाम कीजिए

कि पुनर्विचार के दौरान इनपर भी चर्चा होगी

SHRI K. RAGHURAMAIAH: So far as the Government is concerned, as I have made it very clear, it wants to reconsider clause 125. So, this discussion may be postponed by one hour. In the meanwhile, the discussion on floods would be over. If the hon. Members of the opposition want to give us suggestions about any other clauses, we will consider them also.

श्री मधु लिम्बेय : पहले पाम कीजिए कि

इन क्लोज़ पर पुनर्विचार होगा—10,

108, 109, 110, 125 144 आदि।

SHRI K. RAGHURAMAIAH: So far as we are concerned, we are requesting the House to give us time to have a reconsideration of clause 124-A.

श्री मधु लिम्बेय रत्न राडिंग नहीं होनी चाहिये, यह इनकी गलती है।

15 hrs.

MR. DEPUTY-SPEAKER: There is nothing wrong in having a second look. I personally feel that should be the spirit. But I would like to run this House according to the Rules of the House. Even if it is an adjournment of one hour, it is an adjournment of discussion on this Bill; it may be one hour; it may be one day, whatever it is. Therefore, I think, if the Minister wants it, he should come with a formal motion under Rule 109 that the debate on the Bill be adjournment by whatever time it is. I will formally put it to the House. In the meanwhile, you sort out things.

**SHRI K. RAGHU RAMAIAH:** I would like to move the following motion: I move:

"That Rule 338 of the Rules of Procedure and Conduct of Business in its application...."

**MR. DEPUTY-SPEAKER:** This does not apply at this stage. At this stage, what you should move is only for adjourning the debate on this Bill. That will come only at that stage when you come with that motion.

**SHRI K. RAGHU RAMAIAH:** I move:

"That the debate on this Bill be adjourned for one hour."

**SHRI MADHU LIMAYE:** Which Rule?

**SHRI K. RAGHU RAMAIAH:** Rule 109. May I quote the rule for the convenience of the House?

**MR. DEPUTY-SPEAKER:** May I tell you that I have, again and again, drawn your attention to that Rule?

**SHRI K. RAGHU RAMAIAH:** Rule 109 says:

"At any stage of a Bill which is under discussion in the House, a motion that the debate on the Bill be adjourned may be moved with the consent of the Speaker."

I ask for your consent to move the adjournment of the debate on this Bill under this Rule.

श्री मधु लिमये : उपाध्यक्ष महोदय मेरा मख्टोद्यूट मोशन है इस पर। इसमें, नोटिस नर कोई मन्नाव नही है। इनके लिए नही है। तो मेरे लिए भी नही है। मैं जनता के अधिकारों के लिए लड़ूंगा और इनकी सभामात्री चलने नहीं दूंगा।

मैं कहना चाहता हू कि मैं भी स्पष्टन का प्रस्ताव कर रहा हू लेकिन मेरे प्रस्ताव की वजह यह रहेगी—ताकि सदन क्लॉज 106, 108, 109, 110, 144, 167, 341 पर पुनर्विचार कर सकें।

**MR. DEPUTY-SPEAKER:** I think, even Mr. Limaye is also confused now. I will explain to you how you are confused.

All this will come only when we resume the discussion, not now.

Now, the question is:

"That the debate on this Bill be adjourned."

That formal motion has been moved by the Minister. I have accepted it. I put that to the House,

श्री मधु लिमये हल 109 में कोई ऐसा प्राविधान नहीं है जिसमें माप मेरे मख्टोद्यूट मोशन को खरम कर सकें— यह हम तरह है

"At any stage of a Bill which is under discussion in the House, a motion that the debate on the Bill be adjourned may be moved with the consent of the Speaker."

कारण देकर भी मैं मख्टोद्यूट मोशन दे सकता हू इसमें बिल्कुल कोई रोक नहीं है। ब्रह्म इसलिए स्थगित करना चाहिये ताकि इस क्लॉज क्लॉज 106 108 110, 144, 167, 341 पर पुनर्विचार करना चाहते हैं।

**MR. DEPUTY-SPEAKER:** Now I will do it this way. The Minister has moved a motion that the discussion on the Bill be adjourned, and I have accepted it; he has done it under the relevant rule—I suppose, all this has gone on record—although it was done verbally. Now, Mr. Madhu Limaye—I will take it that way—has moved a substitute motion giving the reasons. That is the only thing. The Minister has not given any grounds, but Mr. Madhu Limaye has given the grounds. (Interruptions) Mr. Madhu Limaye has given a substitute motion giving the grounds—"We want to adjourn in order to reconsider these Clauses". That is the only difference.

Now I will put these motions to the House.

**SHRI SOMNATH CHATTERJEE:** Sir, I move:

"That the debate on the Code of Criminal Procedure Bill, 1972, be adjourned till the next Session."

**MR. DEPUTY-SPEAKER:** Now there are three motions...

**SHRI K. RAGHU RAMAIAH:** I have moved for adjournment for an hour. (*Interruptions*)

**SHRI G. VISWANATHAN:** He did not say that it was for an hour. Now he cannot move an amendment to his own motion.

**SHRI K. RAGHU RAMAIAH:** I said it then. Even when I talked to you all and later on also, I said one hour.

**SHRI DASARATHA DEB** (Tripura East): The Code of Criminal Procedure Bill is sought to be passed hurriedly. Now the criminal mind of the Treasury Benches has come to light.

**PROF. MADHU DANDAVATE:** If you check up the record, you will find that, when the Minister read out his motion, he said only that the Bill be adjourned. (*Interruptions*)

**SHRI K. RAGHU RAMAIAH:** If you follow the tenor of my whole speech, it is obvious. Also in the previous conversations that I had with the leaders, I had made my intention very clear. Let us not be too technical. I made it very clear—and there is no secrecy about it—that the adjournment was for one hour. That was the pith and substance of my motion. (*Interruptions*)

**MR. DEPUTY-SPEAKER:** Order, please. I am really convinced that all the members including the Minister need a holiday now because they have been so much under pressure that everybody got a little confused. I do not know what is on the record; whatever Mr. Raghu Ramaiah has said or has not said, his intention has always been for adjournment for one

hour. Here I have a letter from him which he had written just before these things came up in the House in which he has said—I will read it out; it will take me a little effort because his hand-writing is as good as mine:

"Before the voting on Clauses is over, I request, the Bill may be postponed an hour..."

**SHRI MADHU LIMAYE:** Rule it out, Sir. What is this—'may be postponed'?

**MR. DEPUTY-SPEAKER:** "...as the Government are reconsidering the Clauses."

This is what he wrote to me.

Anyway, let us not be too hair-splitting. Let us take it that he means one hour.

Now, I have three motions here..

**SHRI PILOO MODY:** This sort of charity to the Minister.

**MR. DEPUTY-SPEAKER:** One is by Mr. Somnath Chatterjee that further discussion on this Bill be adjourned to the next session. The second one is by Mr. Madhu Limaye—he has given in writing also—that the further discussion on the Code of Criminal Procedure Bill be adjourned to enable reconsideration of the following clauses: 106, 108, 109, 110, 144, 167 and 341.

**AN HON MEMBER:** 420 also.

**MR. DEPUTY-SPEAKER:** You may be found of 420, but I am not.

These two motions are amendments to the motion of Mr. Raghu Ramaiah. Therefore, I will put these amendments first. I will put the motion of Mr. Somnath Chatterjee first. The question is:

"That the debate on the Code of Criminal Procedure Bill, 1972, be adjourned till the next Session."

The Lok Sabha divided:

## Division No. 19)

## AYES

Bade, Shri R. V.  
 Bhagirath Bhanwar, Shri  
 Bhattacharyya, Shri Dinen  
 Bhattacharyya, Shri Jagadish  
 Bhattacharyya, Shri S. P  
 Chatterjee, Shri Somnath  
 Chaudhary, Shri Ishwar  
 Dandavate, Prof. Madhu  
 Das, Shri R. P.  
 Deb, Shri Dasaratha  
 Dutta, Shri Biren  
 Goswami, Shrimati Bibha Ghosh  
 Guha, Shri Samar  
 Halder, Shri Krishna Chandra  
 Hazra, Shri Manoranjan  
 Joarder, Shri Dinesh  
 Kachwai, Shri Hukam Chand  
 Krishnan, Shri E. R.  
 Krishnan, Shri M. K  
 Limaye, Shri Madhu  
 Malik, Shri Mukhtiar Singh  
 Maran, Shri Murasoli  
 Mavalankar, Shri P. G  
 Mehta, Shri P. M  
 Mishra, Shri Shyamnanda  
 Mody, Shri Piloo  
 Mukherjee, Shri Samar  
 Mukherjee, Shri Saroj  
 \*Murmu, Shri Yogesh Chandra  
 Nayak, Shri Baksi  
 Nayar, Shrimati Shakuntala  
 Pandeya, Dr Laxminarain

(15.16 hrs.)

Parmar, Shri Bhaljibhai  
 Pradhan, Shri Dhan Shah  
 \*Rajdeo Singh, Shri  
 Ramkanwar, Shri  
 Rao, Shri M. Satyanarayan  
 Reddy, Shri B. N.  
 Roy, Dr. Saradish  
 Saha, Shri Ajit Kumar  
 Saha, Shri Gadadhar  
 Sharma, Shri R. R.  
 Shastri, Shri Ramavatar  
 Singh, Shri D. N.  
 Solanki, Shri Somchand  
 Thevar, Shri P. K. M.  
 Verma, Shri Phool Chand  
 Viswanathan, Shri G  
 Yadav, Shri G. P.  
 Yadav, Shri Shiv Shanker Prasad

## NOES

Achal Singh, Shri  
 Aga, Shri Syed Ahmed  
 Ahirwar, Shri Nathu Ram  
 Appalanaidu, Shri  
 Austin, Dr. Henry  
 Azad, Shri Bhagwat Jha  
 Babunath Singh, Shri  
 Banamali Babu, Shri  
 Basumatari, Shri D.  
 Bhargava, Shri Busheshwar Nath  
 Bheeshmadev, Shri M.  
 Brahman, Shri Rattanal  
 Brahamanandji, Shri Swami  
 Chakleshwar Singh, Shri  
 Chandrakar, Shri Chandulal  
 Chandrika Prasad, Shri

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\*Wrongly voted for Ayes

Chawla, Shri Amar Nath	Lutfal Haque, Shri
Chhotey Lal, Shri	Mahajan, Shri Vikram
Chhutton Lal, Shri	Mahajan, Shri Y. S.
Daga, Shri M. C.	Majhi, Shri Gajadhar
Das, Shri Anadi Charan	Malaviya, Shri K. D.
Daschowdhury, Shri B. K.	Mallikarjun, Shri
Deo, Shri S. N. Singh	Mandal, Shri Yamuna Prasad
Desai, Shri D. D.	Maurya, Shri B. P.
Deshmukh, Shri K. G.	Mehta, Dr. Mahipatray
Dhamankar, Shri	Mishra, Shri G. S.
Dube, Shri J. P.	Mishra, Shri Jagannath
Engti, Shri Biren	Mohan Swarup, Shri
Gautam, Shri C. D.	Mohsin, Shri F. H.
Gogoi, Shri Tarun	Muhammed Khuda Bukhsh, Shri
Gokhale, Shri H. R.	Munsi, Shri Priya Ranjan Das
Gomango, Shri Giridhar	Nahata, Shri Amrit
Goswami, Shri Dinesh Chandra	Naik, Shri B. V.
Gowda, Shri Pampan	Negi, Shri Pratap Singh
Hansda, Shri Subodh	Oraon, Shri Tuna
Hari Singh, Shri	Pamuli, Shri Paripoornanand
Jadeja, Shri D. P.	Pandey, Shri Damodar
Jaffer Sharief, Shri C. K.	Pandey, Shri Krishna Chandra
Jeyalakshmi, Shrimati V.	Pandey, Shri Narsingh Narain
Jha, Shri Chiranjib	Pandey, Shri R. S.
Joshi, Shrimati Subhadra	Parashar, Prof. Narain Chand
Kadam, Shri Dattajirao	Paswan, Shri Ram Bhagat
Kadam, Shri J. G.	Patel, Shri Natwarlal
Kader, Shri S. A.	Patel, Shri Ramubhai
Kailas, Dr.	Patil, Shri Anant Rao
Kamla Kumari, Kumari	Patil, Shri E. V. Vikhe
Kasture, Shri A. S.	Pradhani, Shri K.
Kinder Lal, Shri	Raghu Ramaiah, Shri K.
Kotoki, Shri Liladhar	Ram, Shri Tulmohan
Krishnan, Shri G. Y.	Ram Swarup, Shri
Lakshminarayanan, Shri M. R.	Ramji Ram, Shri

Rao, Shrimati E. Radhabai A.  
 Rao, Shri Jagannath  
 Rao, Dr. K. L.  
 Rao, Shri Nageswara  
 Rathia, Shri Umed Singh  
 Reddy, Shri K. Ramakrishna  
 Reddy, Shri M. Ram Gopal  
 Richhariya, Dr. Govind Das  
 Roy, Shri Bishwanath  
 Saini, Shri Mulki Raj  
 Samanta, Shri S C.  
 Sanghi, Shri N. K.  
 Sant Bux Singh, Shri  
 Sarkar, Shri Sakti Kumar  
 Sathe, Shri Vasant  
 Savitri Shyam, Shrimati  
 Sethi, Shri Arjun  
 Shailani, Shri Chandra  
 Shambhu Nath, Shri  
 Shankaranand, Shri B.  
 Sharma, Shri A. P.  
 Sharma, Shri Nawal Kishore  
 Shashi Bhushan, Shri  
 Shastri, Shri Bishwanarayan  
 Shastri, Shri Raja Ram  
 Shenoy, Shri P. R.  
 Shetty, Shri K. K.  
 Shivnath Singh, Shri  
 Shukla, Shri B. R.  
 Sinha, Shri R. K.  
 Sohan Lal, Shri T.  
 Stephen, Shri C. M.

Sunder Lal, Shri  
 Suryanarayana, Shri K.  
 Tiwary, Shri D. N.  
 Tiwary, Shri K. N.  
 Unnikrishnan, Shri K. P.  
 Vekaria, Shri  
 Verma, Shri Sukhdeo Prasad  
 Virbhadra Singh, Shri  
 Yadav, Shri Karan Singh

MR. DEPUTY-SPEAKER: The Result of the Division. Ayes. 50; Noes. 127

*The motion was negatived.*

MR. DEPUTY SPEAKER: Now I will put the substitute motion of Shri Madhu Limaye to the vote of the House.

The question is:

"That the Debate on the Code of Criminal Procedure Bill be adjourned to enable reconsideration of the following Clauses: 106, 108, 109, 110, 144, 167 and 311"

*The Lok Sabha divided:*

Division No. 20 (15.21 hrs.)

**AYES**

Bade, Shri R. V.  
 Bhagirath Bhanwar, Shri  
 Bhattacharyya, Shri Dinen  
 Bhattacharyya, Shri Jagadish  
 Bhattacharyya, Shri S. P.  
 Chatterjee, Shri Somnath  
 Chaudhary, Shri Ishwar

\*The following Members also recorded their votes for NOES:

Servashri Rohan Lal Chaturvedi. Shrikrishna Agarwal,  
 D. Kamakshaiiah, V. Tuladram Rajdeo Singh and Yogesh Chandra  
 Murmu.

Dandavate, Prof. Madhu	Roy, Dr. Saradish
Das, Shri R. P.	Saha, Shri Ajit Kuma.
Deb, Shri Dasaratha	Saha, Shri Gadadhar
Dutta, Shri Biren	Shamim, Shri S. A.
Goswami, Shrimati Bibha Ghosh	Sharma, Shri R. R.
Guha, Shri Samar	Shastri, Shri Ramavatar
Halder, Shri Madhuryya	Singh, Shri D. N.
Halder, Shri Krishna Chandra	Solanki, Shri Somchand
Hazra, Shri Manoranjan	Thevar, Shri P. K. M.
Joarder, Shri Dinesh	Verma, Shri Phool Chand
Kachwai, Shri Hukam Chand	Viswanathan, Shri G.
Krishnan, Shri E. R.	Yadav, Shri G. P.
Krishnan, Shri M. K.	Yadav, Shri Shiv Shanker Prasad
Limaye, Shri Madhu	<b>NOES</b>
Malik, Shri Mukhtiar Singh	Achal Singh, Shri
Maran, Shri Muraoli	Aga, Shri Syed Ahmed
Mavalakar, Shri P. G.	Agarwal, Shri Shrikri-hna
Mehta, Shri P. M.	Ahrwar, Shri Nathu Ram
Mishra, Shri Shyammandan	Ambesh, Shri
Mody, Shri Piloo	Appalanaidu, Shri
Mohammad Ismail, Shri	Austin, Dr. Henry
Mukherjee, Shri Samar	Azad, Shri Bhagwat Jha
Nayak, Shri Baksi	Babunath Singh, Shri
Nayar, Shrimati Shakuntala	Banamali Babu, Shri
Pandeya, Dr. Laxminarain	Basumatari, Shri D.
Parmar, Shri Bhaljibhai	Bhargava, Shri Bhasheshwar Nath
Patel, Shri H. M.	Bheeshmadev, Shri M.
Pradhan, Shri Dhan Shah	Brahman, Shri Rattanlal
Ramkanwar, Shri	Brahmanandji, Shri Swami
Rao, Shri M. Satyanarayan	Chakleshwar Singh, Shri
Reddy, Shri B. N.	Chandrakar, Shri Chandulal



Chandrika Prasad, Shri	Kadam, Shri J. G.
Chaturvedi, Shri Rohan Lal	Kader, Shri S. A.
Chawla, Shri Amar Nath	Kailas, Dr.
Chhotey Lal, Shri	Kamakshaiah, Shri D.
Chhuttan Lal, Shri	Kamble, Shri T. D.
Daga, Shri M. C.	Kamla Kumari, Kumari
Das, Shri Anadi Charan	Kasture, Shri A. S.
Daschowdhury, Shri B. K.	Kinder Lal, Shri
Deo, Shri S. N. Singh	Kotoki, Shri Liladhar
Desai, Shri D. D.	Krishnan, Shri G. Y.
Deshmukh, Shri K. G.	Lakshminarayanan, Shri M. R.
Dhamankar, Shri	Laskar, Shri Nihar
Dhusia, Shri Anant Prasad	Lutfal Haque, Shri
Dube, Shri J. P.	Mahajan, Shri Vikram
Engti, Shri Biren	Mahajan, Shri Y. S.
Ganga Devi, Shrimati	Mahishi, Dr. Sarojini
Gautam, Shri C. D.	Majhi, Shri Gajadhar
Gogoi, Shri Tarun	Malaviya, Shri K. D.
Gekhale, Shri H. R.	Mallikarjun, Shri
Gemango, Shri Giridhar	Mandal, Shri Yamuna Prasad
Goswami, Shri Dinesh Chandra	Maurya, Shri B. P.
Gowda, Shri Pampan	Mehta, Dr. Mahipatray
Hansda, Shri Subodh	Mishra, Shri Bibhuti
Hari Singh, Shri	Mishra, Shri G. S.
Jadeja, Shri D. P.	Mishra, Shri Jagannath
Jaffer Sharief, Shri C. K.	Mohan Swarup, Shri
Jeyalakshmi, Shrimati V.	Mohapatra, Shri Shayam Sunder
Jha, Shri Chiranjib	Mohsin, Shri F. H.
Joshi, Shrimati Subhadra	Muhammed Khuda Bukhsh, Shri
Kadam, Shri Dattajirao	Munsi, Shri Priya Ranjan Das

Murmu, Shri Yogesh Chandra	Samanta, Shri S. C.
Nahata, Shri Amrit	Sanghi, Shri N. K.
Naik, Shri B. V.	Sant Bux Singh, Shri
Oraon, Shri Tuna	Sarkar, Shri Sakti Kumar
Painuli, Shri Paripoornanand	Sathe, Shri Vasant
Pandey, Shri Damodar	Savitri Shyam, Shrimati
Pandey, Shri Krishna Chandra	Sethi, Shri Arjun
Pandey, Shri Narsingh Narain	Shailani, Shri Chandra
Pandey, Shri R. S.	Shambhu Nath, Shri
Parashar, Prof. Narain Chand	Shankaranand, Shri B.
Paswan, Shri Ram Bhagat	Sharma, Shri A. P.
Patel, Shri Natwarlal	Sharma, Shri Nawal Kisore
Patel, Shri Ramubhai	Shashi Bhushan, Shri
Patil, Shri Anantao	Shastri, Shri Biswanarayan
Patil, Shri E. V. Vikhe	Shastri, Shri Raja Ram
Pradhani, Shri K.	Shenoy, Shri P. R.
Raghu Ramaiah, Shri K.	Shetty, Shri K. K.
Rajdeo Singh, Shri	Shivnath Singh, Shri
Ram, Shri Tulmohan	Singh, Shri Vishwanath Pratap
Ram Swarup, Shri	Sinha, Shri R. K.
Ramji Ram, Shri	Sohan Lal, Shri T.
Rao, Shrimati B. Radhabai A.	Stephen, Shri C. M.
Rao, Shri Jagannath	Sunder Lal, Shri
Rao, Dr. K. L.	Suryanarayana, Shri K.
Rao, Shri Nageswara	Tiwary, Shri D. N.
Rathia, Shri Umed Singh	Tiwary, Shri K. N.
Reddi, Shri P. Antony	Tulsiram, Shri V.
Reddy, Shri K. Ramakrishna	Unnikrishnan, Shri K. P.
Reddy, Shri M. Ram Gopal	Vekaria, Shri
Reddy, Shri P. Narasimha	Verma, Shri Sukhdeo Prasad
Richhariya, Dr. Govind Des	Virbhadra Singh, Shri
Roy, Shri Bishwanath	Yadav, Shri Karan Singh
Saini, Shri Mulki Raj	<b>MR. DEPUTY-SPEAKER:</b> The result* of the division is: Ayes—51; Noes—142.

*The motion was negatived.*

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\*Shri B. R. Shukla also recorded his vote for Noes.

**MR. DEPUTY-SPEAKER:** Now we take up Shri Raghuramaiah's motion. The question is:

"That the debate on the Bill be adjourned for one hour".

*The motion was adopted.*

15.23 hrs.

#### DISCUSSION RE: FLOOD SITUATION IN THE COUNTRY

**MR. DEPUTY-SPEAKER:** As agreed to by the House earlier, we take up a short discussion on the flood situation in Gujarat, Rajasthan and other parts of the country.

I do not know we can really do it in one hour. I have, before me, a list which I have received. It has the names of 21 Members who have already given their names; there may be a few others who have not given their names. Even if I allow five minutes to each—even if I allow two or three minutes it does not matter—it comes to more than one hundred minutes, without the Minister. So, I really do not know. Anyhow, the House has decided for one hour. I shall give one or two minutes each. I do not know what really you will say in two to three minutes. I do not understand this. I have placed it before the House. It is now you to decide.

**THE MINISTER OF PARLIAMENTARY AFFAIRS (SHRI K. RAGHURAMAIAH):** So also it is understood that the Criminal Procedure Code Bill will be taken up after this.

**MR. DEPUTY-SPEAKER:** I think let us proceed on this basis. I will give five minutes each. Otherwise it becomes a little farcical as to what one can say in one or two minutes. I shall go according to the names in the list I have got. Shri P. M. Joshi. He is not here. Shri D. D. Desai.

**SHRI D. D. DESAI (Katra):** Mr. Deputy-Speaker, Sir, Gujarat has been flooded by overflowing rivers water. Water, as such, is rather a rare commodity in India. Every drop of rain-water is required to be collected, preserved and properly used. Water management is an important job and we should have floods water damage in the country. This reflects on our inability to manage water. As I said earlier, this is one of our scarcest commodities. Last year we had in Gujarat a very bad drought. And that drought was on account of shortage of water in rainfed as well as in other areas. There was also scarcity of power which resulted in an additional difficulty. The time that is given to us for discussion is comparatively limited. Therefore, I shall do my job of it.

The rivers of India flowing westwards are more or less converging in the plains of Gujarat. It is necessary for the country to have a proper water management system for conserving all the water that falls during the rainy season in the respective areas. The management system for conserving all the water that falls during the rainy season in the respective areas. The management of water is to be so organised that water may be utilised for irrigation, industrial and drinking purposes. Here, the biggest water source is the Narmada. This project however has been held up for several years. We know the difficulties. But the people of Gujarat are extremely generous, charitable and magnanimous. The Madhya Pradesh people are our friends; they should not think that we belong to different countries. After all, Gujarat is part of India and so is Madhya Pradesh, and the people of both States are all Indian citizens only. So, we would like to see that none of the people is hurt, but on the contrary, whatever gains come out of the Narmada project are not only shared, but, these people who suffer on account of the Narmada being fully utilised.