

[Shri Vasudevan Nair]

reply, incorrect reply, his officers sent an incorrect reply, but then he leaves it at that. I am glad Mr. Limaye has raised it and he is going to reply. Months have passed. A member writes letter to him pointing out the mistake, but the Minister does not come before the House to correct the answer.

The Minister of State in the Minister of Defence (Shri A. M. Thomas): In this particular matter raised by Mr. Vasudevan Nair, in fact a notice given under direction 115 has been received only from Mr. Limaye. Mr. Nair wrote to me, and in reply to that I have explained to him the real situation.

Mr. Speaker: If this has come to the notice of the Minister himself by the letter written by Mr. Vasudevan Nair....

Shri A. M. Thomas: It was simultaneous.

Mr. Speaker: Then, too, as soon as the Minister had learnt that a mistake had crept in, he should have come voluntarily at the earliest moment to correct it.

Shri A. M. Thomas: But because this notice under direction 115 was also received by me..

श्री मधु लिमये : बात यह है कि आप से हम लोग ज्यादा सचेत हैं ।

प्रध्वल महोदय : मैं बोल रहा हूँ तो बीच में तो न बोलते जाया करें ।

श्री मधु लिमये : मैंने इस और आप का ध्यान खींचा है कि ये सचेत नहीं है ।

Mr. Speaker: When the Minister has realised that a mistake has crept into the reply, whether notice had been given under direction 115 or not, the Minister should come up at the earliest opportunity to a correct reply in the House, without regard to any notice or requisition.

Shri A. M. Thomas: As would be seen from my statement, really there has not been any mistake.

Shri Vasudevan Nair: Why? Your letter is with me.

Shri A. M. Thomas: Moreover, from the Lok Sabha Secretariat there was a memo sent to the Ministry asking for the facts of the case, and we have furnished information regarding the real situation, so that there has not been any wilful negligence on our part, or attempt to suppress any information from the hon. House.

Shri Vasudevan Nair: It was a wrong reply. Why should he try to explain it away like this? In his letter to me he has admitted that it was a wrong statement.

Mr. Speaker: How long is the statement?

Shri A. M. Thomas: It is four pages.

Mr. Speaker: It might be laid on the Table of the House.

Shri A. M. Thomas: A copy has been given to the hon. Member also.

I beg to lay the statement on the Table of the House. (Placed in Library. See No. LT-7451/66).

13.15 hrs.

POLICE FORCES RESTRICTION OF RIGHTS) BILL—Contd.

Mr. Speaker: Mr. Shinkre.

Shri S. M. Banerjee (Kanpur): Before you call Mr. Shinkre, I have to say something on the Bill which is before the House.

Yesterday I and Mr. Nambiar raised certain constitutional points, and we said that the Bill should not be proceed with because it is bad in law, and you, in your wisdom, said that you were not concerned with it, you would not decide the constitutional aspect of it.

May I invite your kind attention to this? After that I consulted some parliamentary documents and the proceedings of this House. You remember that when Shri Morarji Desai came with the Compulsory Deposit Bill, all members of this House opposed it; on this occasion only myself and some others have opposed it; in that case every body opposed it; and ultimately the same question was raised whether it was a reasonable restriction, whether it was in accordance with the Constitution, whether this would not be denying a citizen his....

Mr. Speaker: This has been decided yesterday. He cannot raise it now again.

Shri S. M. Banerjee: I only want a direction from you whether in such cases.....

Mr. Speaker: That decision has been taken, whether right or wrong, and it cannot be revised now at this moment.

Shri S. M. Banerjee: We can get the advice of the Attorney-General.

Mr. Speaker: No, please.

The Minister of State in the Departments of Parliamentary Affairs and Communications (Shri Jaganatha Rao): The time proposed by Government for this Bill is two hours. May I know by what time all the stages of the Bill would be concluded?

Shri Hari Vishnu Kamath: (Hoshangabad): Not less than four hours. It is a very important Bill.

Shri Jaganatha Rao: Half an hour was taken yesterday.

Mr. Speaker: We might go up to 4 O'clock.

Shri Hari Vishnu Kamath: Half past four.

Mr. Speaker: Four O'clock. Members should be brief in their observations.

13.16 hrs.

[MR. DEPUTY-SPEAKER in the Chair]

Shri Shinkre (Marmagao): As I was submitting yesterday, the very fact that the Government felt the need or bringing forward such a legislative measure like this to prevent the police forces from forming themselves into trade unions is a very serious reflection on their efficiency and ability to govern, and to give the police forces their reasonable due. As I said also yesterday, this is a sign and symptom of the very serious situation prevailing in the country because this just shows that of all the classes of people under this Government, the police forces at least, according to their own confession and admission, have lost confidence in them.

I may be permitted here to remind the hon. Deputy Minister who is deputising for his boss, the Home Minister, that when Lord Atlee, at that time only Mr. Atlee, piloted the Indian Independence Bill, he prefaced it with several reasons, and one of them, perhaps the most important one, was that the British Government could no longer rely on the loyalty of the native forces of India, and the British Government could not afford to keep in India large European forces. This was one of the reasons given by him for giving up power in India. So I submit that when this Government have lost the confidence of the police forces, or rather the police forces have lost confidence in the Government, they have no more confidence in the Government, it is but proper for this Government to tell this Parliament from now on they are stooping to rule because there is a real crisis of confidence between the Government and the police forces.

This does not mean that I am not supporting the underlying principle of the Bill. I am completely against trade unions or political movement not only in the police forces or the armed forces, but in any Government service. After all, police forces or

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armed forces are only Government servants, and their primary loyalty is to the Government of the day. If we allow the police forces to form themselves into trade unions, we will before long, be having Mr. Ananda Nambiar leading one trade union of part of the police forces, and Mr. Banerjee leading another trade union of another part of the police forces, and there would be a permanent conflict and clash between the trade unions, and you know very well how.....

Shri Hari Vishnu Kamath: You said "Vanarji".

Shri Shinkre: I did not say "Vanarji". I said Banerjee. You know, Sir, that human nature normally restricts itself to smaller loyalties. If we have fires and things like that involving serious damage to national property in fertilizer plants or heavy engineering plants in Ranchi or other places, what will happen? We will see the police forces refusing to obey the orders issued by the Government and I will not be surprised if leaders like Shri Ananda Nambiar controlling the trade union go to the police forces and tell them: "देखो भई, कल से तुम्हारी तन्द्वाह इंस्पेक्टर जितनी होनी चाहिए, नहीं तो तुम कल से भूख-हड़ताल, अनशन शुरू कर दो। अगर तुम ऐसा करोगे, तो परसों से तुम को उतनी तन्द्वाह मिल जायेगी।"

The policemen will go on strike. This is the situation that they want to create because their big masters had once upon a time told them to create disorders first in those places.

Shri Nambiar: (Tiruchirapalli): There is the feeling of discontent among the policemen.

Shri Shinkre: The communists take advantage of it. Every now and then the communists come before this House and villify and launch attacks on the police forces. Now they come

with this pseudo love which is far more dangerous and serious to this country. I do not want this Government to neglect in any manner the rightful demands and the amenities that are due to the police who are holding the brunt of the worst situation that this country is facing. To allow trade unionism is something that will mean the end of law and the rule of law in the country. Mr. Banerjee and Mr. Nambiar have become a sort of constitutional pundits and yesterday they raised constitutional objection saying that this Bill violated articles 19 and 33 of the Constitution. They are clever.

Shri Nambiar: That is why we are here.

Shri Shinkre: They quoted one half; the other half was not perhaps their concerns. Sub-clause (2), (3), etc. specifically lay down that the State can make laws to limit or restrict the fundamental rights given to any citizen under article 19. The policemen are not free citizens of this country. I am a free citizen and I can say: hang this Government; the first time I have a chance, I will hang this Government. But no policemen can say that; no Government should allow that. They serve the government of the day. The Government may be changed or may not be changed. The policemen and the Government servants are bound by loyalty to the Government of the day and their first loyalty is to the Government and if you allow them to form trade unions and create disorder we shall have to say goodbye to any law and order in the country.... (Interruptions.) I am all for giving them recreational, cultural, sports and other amenities. But they need not form a trade union for that purpose.

Having said that, I have to say that I have my doubts whether the provisions in clause 3 are necessary at all; all that is laid down here can merely be part of the service rules Quote:

"No member of a police force shall without the express sanction of the Central Government or of the prescribed authority be a member or associated in any way in trade unions, labour unions, etc.' All these are usually part of the service rules. Do we require an Act of Parliament for that?"

Shri Tyagi (Dehra Dun): For the purpose of conviction.

Shri Shinkre: I will come to that. It is again very serious. I have a feeling that the Government might have been attracted by article 19 which lays down what should be the punishment meted out to people who infringe the fundamental rights as laid down in article 19.

Clause 4 lays down the procedure to be followed for the punishment. I wonder if this sort of penalty may not be constitutional because what is put here is only disciplinary offences. If for instance, I did the same thing, I would be committing no offence. There is a fundamental difference between the concept of the common criminal offence and the offences as defined in this Bill. So, the punishment of imprisonment will not be proper or appropriate in this case. It is true that this Parliament can enact any law and prescribe any penalty. But that does not mean that we can pass a law giving capital punishment for an offence like defamation. There are some standards inherent in our Constitution and the structure of our penal law. These are disciplinary offences that ought to be punished at the most with dismissal or suspension or compulsory retirement. My submission is that imprisonment would not be an appropriate punishment in a disciplinary case. The Home Minister is luckily in the House now and he should give his considered view on this clause. I do not think he is responsible for this clause though he is holding the baby now as it might have been thrown on him when he assumed the new portfolio and so he cannot be blamed for this. I do not think they have consulted any constitutional

pandit as I feel no disciplinary offence can be punished with imprisonment. What imprisonment? Imprisonment up to two years with fine which may extend to Rs. 2,000 or with both. Under our Penal Code, to be eligible for two years imprisonment, one has to be a complete blackguard and for this mere offence against disciplinary rules, I do not think it would be appropriate to stipulate such a sort of heavy and inhuman penalty. So, I hope that the hon. Home Minister will bear in mind the suggestions of mine and do the needful.

Shri Indrajit Gupta (Calcutta South West): Mr. Deputy Speaker, Sir, since yesterday, I am seeing Shri Shinkre in a new light; yesterday, he passionately advocated the provisions of the Preventive Detention Act and today I find him bitterly opposing this idea of policemen having any trade union or organisation of their own. I do not know whether this change in him has anything to do with the approaching elections. However, it is of course only to be expected....

Shri Shinkre: I have already announced that, I am no more a candidate for any seat either in the Lok Sabha or in any Assembly.

Shri Namblar: So, this is the last chance of hearing him. We will hear him more, tomorrow and the day after tomorrow.

Shri Indrajit Gupta: It is only to be expected that this Government would bring forward such a Bill. I would be surprised if they did not, but there is a rather tragic or pathetic irony in the whole thing, as to why this particular Bill is being brought forward at this particular time. The Constitution is there since 1950, and this is 1966, and the same powers under which they are restricting the rights of the police force now were there for 16 years. but were never exercised in this specific form. So, the first question which the public in this country will not fail to note is that it is

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being brought forward at a particular moment of time and that is not fortuitous; there is a reason for it. At a time when there is a wave of unrest sweeping the entire country to which we have been referring so many times in this House on so many occasions, an unrest whose mainspring is the economic discontent born out of the suffering and exploitation of the common people of this country, caused by the bankrupt policies of this Government on the issues of food and prices and economic development and employment and so on, it is just at this time that the Government has become so callous, so bureaucratic in its attitude and so isolated from the conditions, the actual living conditions of the people, that it even forgot that the very policemen on whom it depends also are citizens of this country, humble people, poorly paid people who have got to keep their body and soul and their dependants alive in these very difficult economic circumstances, they forgot that. This is a period when this Government is increasingly showing a propensity for automation. And inconformity with that mental attitude of theirs, of bringing in automation into this country, perhaps they also consider policeman to be nothing but robots; they want them to be mechanical robots, who know how to fire a gun and wield lathies, who must be without any opinion of their own, any conscience, any kind of power of thinking or anything of that kind or even the bare minimum wherewithal with which they will be able to keep themselves and their families alive: even that, they have become impervious to. And suddenly, on the crest of this popular wave of discontent and unrest sweeping the country, when more and more this Government has to depend only on the police force to suppress that popular movement, then suddenly this Bill is brought forward, because it is found that in the city of Delhi, some poor, non-gazetted police constables—Karamcharis as they call themselves—decided that they should have some

sort of union or association to ventilate their grievances regarding the amenities, benefits, pay-scales and so on. So, after 16 years, suddenly this House is called upon to approve of this Bill. It is really rather a pathetic state of affairs; all these years it was never considered necessary at all.

The facts that have come to light about the Delhi policemen's agitation show that—if these facts are correct, I do not know—they have been trying for quite a long time to represent their grievances in various ways, to various people, to the senior officers, the IGs of Police, the Home Ministry, the Lt.-Governor of Delhi; they have approached all these people in various ways, by submitting memoranda and petitions and all that kind of thing. But they never got any kind of hearing or any kind of sympathetic response at any stage and they even, rightly or wrongly, tried to reinforce their demands by such token forms of action,—you might call them—as refusing for one day to take their salaries or going on a fast as a measure of penance, as they declared and as we read it in the papers, and so on.

Now, I want to know, can anybody in this House, can the Minister, can any Member on that side or can Shri Shinkre, give a single example or instance to say that during this whole period, when the so-called agitation by these constables has been going on, there has been the slightest dereliction of duty on their part, duty as we understand it according to the disciplinary rules of the police? Can anybody say that at any stage they have not performed their duties? Have they not made it clear, over and over again, that whatever they may do in the way of representing their grievances—they have made it clear—that they will abide by the discipline of their service and they will never stop work or go on strike, and that they will attend to their duties? They

have in fact done so on the 7th November, when the famous demonstration demanding a ban on cow-slaughter was taking place outside this House, and so much panic was created in the city of Delhi not only by the demonstrators but by the Government also, by the All-India Radio also. Some Members expressed in the House the fear, I remember, that if the police had not done its duty that day, than the sacred, sacrosanct precincts of this House would have been stormed; they had said so here, on the floor of this House. At that moment they did not fail to note this fact, that even under such a very severe trial that day, how well the police had behaved, how much restraint they had shown. I must say that this is one instance, example, when it cannot be said that the initial provocation came from the side of the police. So, please do not conjure up this terrible, nightmare vision that the moment you say any policeman wanting to raise a demand for better pay, salaries and wanting to form an association, it means that immediately there will be a total breakdown of law and order, because these people are not behaving like that. They are showing some sense of responsibility which I think ought to be commended, instead of being in any way condemned.

Now, I think the policemen in Delhi wanted to form some sort of non-gazetted Karmchari union, and they had drafted a constitution and wanted that to be registered under the Trade Unions Act, which was refused to them. But I am sure the hon. Minister has had an occasion to see that draft constitution, and I am sure that if he has been it he knows that they have explicitly, not implicitly, but explicitly, in so many words, written into their constitution that they would never under any circumstances resort to strike or be absent from duty or stop their work. They have put that self-restraint on themselves. They have mentioned clearly in their aims and objects of that constitution that

they would never go on strike, that they would try to improve the discipline of the forces and also that they would try to eradicate corruption in the police force which I think is a very important thing.

Who does not know that the source of corruption among the poorly paid Government employees and others is the fact very often, that they are not able to make two ends meet, and there is always the temptation to exercise authority, since they are Government personnel, for purposes which lead to corruption? And simply by bottling up those grievances and denying them their legitimate right, you are in a way indirectly, not deliberately but indirectly, encouraging them to resort to corrupt practices.

So, what I would say is, why should not this right of association in some form be given to them. That is what I want to know. Shri Shinkre talked about Government employees being a separate category and all that. But the point is, the right of trade union organisation subject to certain restrictions, of course, is there, and is enjoyed by all Government employees I want to know what Government employee does not enjoy it. Do they not have trade unions? Are the police performing a duty which is more important than that of workers who are producing weapons for our armed forces? The Home Minister who was Defence Minister till a few days ago knows that there are unions in every defence factory. Have these defence workers been accused of dereliction of duty at any time? Have they failed to rise equal to the occasion when the necessity arose? Are not the railwaymen allowed trade unions, in spite of the fact that if they strike, the entire communication system will be paralysed?

In my opinion, this is not the way to have a satisfied and contented police force. Redress of grievances through collective representation is the best way to remove discontent in a timely way, instead of allowing it

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to boil up to a stage when it might lead to undesirable consequences. If any attempt is made to suppress the legitimate grievances, I am quite sure they will burst out one day in some form or other. I would request the Government not to try to repeat history. Mr. Shinkre made a passing reference to it. May I remind the Government, in 1946, even before the agitation for the release of the INA prisoners, it was the revolt of the policemen which first shook the foundations of the British Government in this country! Please remember what happened in Bihar. At that time the British Government also said the same thing that the police are in charge of law and order and they should not be allowed to form unions to voice their grievances; but, all that the British Government succeeded in doing was to make a national hero out of Mr. Ramanand Tiwari, who was the leader of the policemen in Bihar during that strike. He is not a respected opposition member in the Bihar Assembly. He chose to find his political destiny outside the ranks of the ruling party also. He is widely respected in Bihar because of his association with that movement. So, do not try to repeat history.

Whether you call it an association or a trade union, there is no material difference. They should be given the right of collective association with their own constitution and rules, and permitted to put forward their grievances collectively and negotiate with the Government.

Policemen are permitted at the time of election to vote by postal ballot. Many policemen are voters in my constituency who vote by postal ballot. If they are permitted to choose a member of this House, will you also allow them to come and meet an MP, for whom they are entitled to vote? I do not think Government will allow that. If he is found approaching an MP, he would suffer serious consequences.

The whole attitude of the Government is very bad in this respect. I am told that when his predecessor was in charge of the Home Ministry, the Delhi policemen were given some sort of assurance, probably unofficially, I do not know, that their demands would be considered in three separate categories. Firstly the question of immediate interim relief to be given to them as a protection against the rising prices. Secondly the question of overtime allowance, which would be settled directly with them. Some other demands would be taken up for discussion and some other demands would be referred to the Police Commission which is to be set up to go into their grievances. When the Minister replies, he may kindly give this information as to what has happened about those categories of demands which were to be settled directly or by negotiation outside the scope of the Police Commission. So far as I know, nothing has been done in this regard. Sir on behalf of my party, I totally oppose this Bill.

Shri Joachim Alva (Kanara): Sir, I support this Bill brought forward by the Home Minister in regard to the restriction of certain rights of policemen. I admire the dignified speech made by Mr Indrajit Gupta, who is one of the best spokesmen in the House who speaks with clarity and dignity. But we differ with him on many fundamental points. He has put his case very well. I am sure he will lend his ear to us when we put our case.

I have mixed with the police considerably. When I went to see the House of Commons—the Speaker sent me there this year, I spoke to the policemen there and asked why crime was so high in London now, when even Indian policemen were quick enough to catch up with crime. In New York, during late President Kennedy's last election meeting at Madison Avenue, the police wanted to open this bag of mine which I carry all over. I refused to allow them to open it. I showed

him my card and said that I am an M.P. Still he insisted and when he opened my bag, all that he found was an apple! He was ashamed and he ran away. I told him that our Maratha policemen in Bombay has got more common-sense than the policemen in New York, because he insisted on opening my handbag and found nothing incriminating.

I want to pay my tribute to the Indian policemen, especially of the rank and file. They are the unsung and unwept heroes of law and order in India. I grant there may be some bad exceptions, like the policemen in U.P. with whom my valiant friend, Mr. Maurya was involved. I have great sympathy for him. I also defended in the court of the Chief Presidency Magistrate in Bombay Mr. Shukla, a former Congress Member of Parliament and the brother of the Deputy Home Minister, when he was thrashed by the police in Bombay and was tried on a charge of assault when it started on nothing.

Mr. Maurya went to the rescue of a tongawalla who was being beaten up by a policeman who was not in uniform and who was not on duty. Yet, Mr. Maurya was jailed though the Allahabad High Court quashed the conviction. He may be an impulsive man and I have great sympathy for him. But an M.P. also is entitled to certain rights of protection like the ordinary citizen.

The policemen in Delhi have done a very good job. We appreciate the way they played their part on that unforgettable day—November 7. If they had failed in their duty then, you and I will not have been sitting in this House, because there are incendiary elements in our public life who are encouraged by the conduct of some people in this very House. They might have set fire to this very House. Where would you and I be in that case? We all want to pay our tribute to the gallant policemen of Delhi who have defended this great capital at all times.

I also pay my tribute to the Bombay policemen. It is, after all, the Gateway of India. Regulation of traffic there is one of the best in the world. There is such an amount of commonsense, the Bombay city policeman displays. They have had a succession of good Home Ministers like Mr. Munshi, Mr. Morarji Desai, Mr. Chavan and now Mr. Balesaheb Desai. The Bombay Police have always unravelled sensational crimes. I would also like them to find out how some retired police officers have amassed great fortunes, as in the case of Mr. Goaker, who has been involved in a very sensational smuggling case to the tune of lakhs of rupees, who was a former police officer, who became a race-horse owner and who blossomed into a big racketeer. He has been caught now. I would like the Bombay police to look into it.

Sir, the policemen shall be seen, and not speaking in public. They can speak amongst themselves in private. They shall act and not hurt people. They have to defend and not unjustly kill anybody. These policemen are the people on whom we depend in the last ditch. If they are going to have unions and *mara mari*, if they are going to hold a pistol at the Government, what is going to happen to law and order? Then we may have to fall back on the army. Does my hon. friend want us to fall back on the army? If he establishes a Communist State in India, will he allow the police any rights of freedom? (*Interruptions*). How many rights do the police enjoy in the Soviet Union?

Sir, I want the police force to have plenty of medical and housing facilities. When they are on duty, they should be fed well. They have to stand for long hours day and night. Sometimes they have to be on duty for 12, 13 or 18 hours. They must be fed well at intervals and they must be given cool drinks, coffee and tea without any restraint of budgetary proposals.

Their children's education should be well looked after. Nursery schools

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should be opened for them. I went into the Police Club in Bombay for the first time just 2 months ago, that was built by the donations of the notorious *jo hukumwallas* who supported the British raj. The Club is only for officers. I saw a galaxy of photographs of former British Commissioners of Police, who sent us to jail. There is no police club for the ordinary rank and file. Do not the ordinary rank and file want a club for themselves, their families, their children and their own people to dance, to have recreation and other things? This is also an essential amenity for them which we should not ignore.

They should have social amenities. They should have lands after retirement just as men of the defence forces get after retirement, so that they can also take to cultivation, poultry farming etc., and live a good life on retirement after a meritorious service.

These are the simple things that we have to look after. We have to look to their gratuities, their pension and other requirements. We just give a grant of Rs. 1,00,000 or Rs. 50,000, appoint a Commission and take it for granted that all their troubles are over. I congratulate the Government for waking up suddenly, for suddenly realising their difficulties. They have appointed a Police Commission. They have also given a grant of Rs. 1,00,000 or Rs. 50,000. But I would say the Home Ministry has to be the watch and ward of the rank and file of policemen. The police in Delhi, in Himachal Pradesh, the special armed police on our borders, they have all done a wonderful job. They are defending our country. They are the next line to our defence forces.

These things are very important. I have got some experience of policemen. When a European police officer smashed the nose of a taxi driver in Bombay, I defended him in Court and got him acquitted. But, Sir, we cannot allow the rank and file to have a

union, to have an association. The association can be formed only with the permission of the Government. What is the object of forming a union? Tomorrow if they go on strike, how can we safely stay in our houses? How many of us were stunned when we read in the papers about the Solicitor-General's murder? We started worrying about our own protection. Only when we read that a lot of money was found we felt safe that we did not have any money and, therefore, we could sleep in peace! Law and order is very important. I admire every policeman for discharging his duties. Now we have also got women police. It is a creditable achievement. We have got intelligent women in customs and the Police force. I do realise that men of the noble calibre and legal acumen of Shri Chatterjee do not like this bill and they will find fault with its essential provisions. But I am sure, if they cross over and take power, they will also be compelled not only to keep this law going but also to add some more provisions to it.

Sir, I have nothing more to add. From beginning to end, now and always, I shall pay my tribute to the rank and file in the police. They are doing a great job. I am not concerned with the officers, I am concerned with the hundreds of men who do long hours of duty away from their families. At any time they may be shot down. Their lives are always in danger. They are our guardians. For God's sake let this not be considered on party lines. I would appeal, through you, Sir, to see that no unions are formed. You know what the unions are. Shri Banerjee who will be speaking after me will tell you a lot about unions. He worked in a union in Cawnpore. I am sorry, Shri Tyagi, when he was the Minister of State in the Defence Ministry sent him away from the Ordnance factory; otherwise he would have been there in the union instead of being here and worrying about others.

Shri Nambiar: Mr. Deputy-Speaker, Sir, I am sorry Government has chosen

to bring forward this unfortunate Bill. I strongly oppose this. It is not that I have got any special love for the police. I have got love for the police. I have got love for the police as well as the citizens of this country. All are equal. To say that the Communists are here to exploit the situation, to instigate the police against the Government, is wrong, is malicious and mischievous. Shri Shinkre, if at all he feels that we are here to do harm to the police or create a kind of situation in the country, is absolutely wrong. I can only sympathise with him when he said that he was making some of his, so to say, last speeches in the Lok Sabha because he was not going to come back to Lok Sabha hereafter. I can only sympathise with him and leave him at that.

What made the government come forward with such a legislation at this stage? We must go a little into the history of the case of policemen in Delhi and this country as a whole. The policemen are treated very badly. They are treated in such a way that they have no other go but to form themselves into an association to redress their grievances and improve their lot. They have no political intentions. They do not propose to interfere with the political set-up in this country. They have made it clear. You say that they can have an association or, whatever they may call it, with the permission of the Government. I do not know what sort of conditions the Government are going to put. But, if an association can be permitted, what is the harm in permitting a union? Are you quarrelling with the word "union"? If that is so, we can very well request them to change the word into "association". After all, it is not on the word that the Government wants to object. The Government wants to give prior consent so that only with their consent they can form an association. When they give their consent, what will be the conditions that they will stipulate? That we do not know. If they can give consent to an association without

stipulating any conditions, an association which is intended to improve their lot, then the policemen will be satisfied.

I know the history of certain agitations of policemen. We had an agitation in Madras when the policemen wanted certain improvement in their conditions. When Shri Rajagopalachari was the Chief Minister, he went to the extent of using force and beating up the policemen. The policemen who wanted some improvement in their conditions, who went in a procession and petitioned the Government, they were beaten up. The police were divided into two and one wing was used to beat up the other wing. These things happened in Madras. Recently, in Delhi, the policemen had resorted only to a legitimate way of expressing their grievances. Therefore, the Government should treat them with sympathy.

The policemen of Delhi, under the name of their union, the Police Non-gazetted Karmachari Union, submitted a petition dated 7th September, 1966 to the IGO, Police, Delhi, the Minister of Home Affairs, the Chief Commissioner, Delhi and also the Deputy Chief Commissioner. In that they have narrated their conditions. Their present conditions of service are appalling. The conditions of living detailed by them makes the most serious reading. From that we find that the policemen of our country are very badly treated. If they did not so far come forward to form an association and agitate explaining their grievances, you must only thank them because the conditions in which they are living are so bad.

Shri Chatterjee was asking me what salary a policeman gets. He gets something like Rs. 110. Can a man in Delhi live with only Rs. 110? What about other things like housing etc? They are not given any rest. Is there any restriction on their working hours?

[Shri Nambiar].

They are made to work round the clock for 24 hours. I can understand if a policeman gets rest after eight hours of work. A constable, a head constable, a sub-inspector or an inspector, whoever it is, must be given at least rest or over-time for the extra time he works. There is no such provision. Can they deny these things to the policemen? This Home Ministry has denied these things. Here I would like to quote some figures from the petition that they have submitted, which will convince you of the legitimacy of their grievances. Here they say:

"The Police Union demands that the non-gazetted police officers' pay scales may be revised as under:

Constable: Rs. 110 to Rs. 180.
Head constable: Rs. 150 to Rs. 210.

Sub-inspector: Rs. 210 to Rs. 380.

Inspector: Rs. 380 to Rs. 430".

14 hrs.

Is it an illegitimate demand to ask for the grant of a salary of Rs. 110 to a police constable in Delhi? But even this our Government is not prepared to consider. The answer to this demand is a Bill which prevents them from even forming an association, taking shelter under article 32 of the Constitution. Is this the way the policemen of our country should be treated, the policemen about whom the hon. Minister stated that they have meritoriously served the country for all these 18 years? They must be treated with sympathy and their reasonable demands must be satisfied. Then they should be asked whether they require a trade union under the Trade Union Act, they should be told that it will not be necessary because they have an association. Why are you not recognising their association? Why do you not give it a trial? Can you not treat them well for the

service they have rendered in the past? You are not prepared to do that because you are afraid that once the policemen start an association they will do something against the Government or that they will give political colour to their agitation. Why should the Government presume so? This presumption is not at all justified. I say that you should consider their memorandum for its face value and satisfy their legitimate demands. What are their demands? One of their demands is:

"The Special pay and allowances of the Non-Gazetted Police Officials who are posted in C.I.D., Security, F.R.R.O. and Traffic Staff, may be up-graded forth-with taking in view the high level increase of dearness. Also, clothing allowance may be increased accordingly."

They want a better rate of dearness allowance. When the railwaymen, Government servants and industrial workers are pleading for higher dearness allowance, why cannot the poor policemen, on whose shoulders lie the responsibility of maintaining law and order, ask for higher dearness allowance? Why should they be denied this? Does it require so much of thinking to grant it? Does it require crores of rupees to grant adequate dearness allowance to the policemen? Because it was not granted, they have now come forward with a memorandum, backed up by an application for registration as a trade union. It is only then the Government opens its eyes and says that this movement for the formation of an association should be nipped in the bud. I am very sorry for this state of affairs.

Why do you want to put the entire blame for this on the politicians, specially Communists? Are we going to enter this association? Have we got any trade union interest in their association? No, we have not. We are

pre-occupied with the trade unions of Industrial Workers and peasantry, hundreds of thousands of them and we have no time to take any interest in the trade union of the policemen. I can declare here and now, on behalf of my party, that we are not going to enter the trade union of policemen. Please, on that ground alone, do not deny them the right of forming an association. Do not bring in politics where it does not exist.

What does their memorandum say? It says:

"The Police union demands modern sanitary, hygenic quarters for family and single persons. Building loans to be departmentally provided for non-gazetted police officers within two months of their submission of applications."

Now they do not get it even after 12 months.

"The Police Union demands police personnel be strictly utilized only for public service."

This shows that policemen are now used for private work. Purchasing utensils and things from the bazaar for the officers has become their normal work as orderlies. The orderlies follow the officers only to defend them; but now they are asked to purchase mutton and fish and sweep the rooms of the bungalows of police officers. This is the unfortunate situation. It is mentioned in black and white in the memorandum submitted by them. After all, it is not a Communist inspired or created document. It says further:

"Non-Gazetted Police Officers should have regular weekly holidays and Gazetted Holidays, and be paid over-time, with extra rest days following and special pay rates for night duties . . ."

The Police union demands that promotions be given from the rank of constable to the highest rank, by seniority being given due consideration."

They do not say that promotion should be only by seniority.

But seniority should also be given due consideration for purpose of promotion.

"Favouritism, in the form of 'Confidential marks' being contrary to the Indian Constitution be abolished."

Now favouritism, nepotism, bribery and corruption are existing in the police force, which is very bad in any organisation. If it exists in the police force or military, there is no salvation for the country.

"Direct recruitment to the post of Sub-Inspectors and Head Constables to be abolished and vacancies to be filled from ranks immediately below."

I do not want to tire the House by reading the entire memorandum, a copy of which is already before the House. I would request the hon. Home Minister, who has taken up this job with zeal and enthusiasm after his victory over the Pakistani forces, to take courage in both hands and accept policemen as his own subordinates and treat them favourably, equally, with courtesy and with consideration so that he will get co-operation from them, instead of terrorising them by bringing in enactments under the Constitution and saying "I will give you two year's imprisonment if you form a union or be a member of that union". What is this business of imprisonment for two years for an Indian citizen? For the sin of being a police constable, for the sin of becoming a member of the police union, is he to be punished with imprisonment for two years?

An hon. Member: And disqualification for standing for election.

Shri Nambiar: He has got disqualification for everything. He cannot go to the houses of Members of Parliament.

This is an obnoxious piece of legislation. I do not know a better or

[Shri Nambiar].

harsher word. I hope my hon. friend, Professor Hiren Mukerjee can teach me a still harsher word for expressing my feeling. This is a rotten, obnoxious, most-hated piece of legislation, which should be thrown out. Why should the policeman be penalised with imprisonment for two years for becoming a member of a police union or association? So, this is a very bad and reactionary piece of legislation, which I oppose tooth and nail.

श्री हुकम चन्द कछवाय उपाध्यक्ष महोदय, हमारे सामने जो बिल आया है, इसका मैं पूरा तो नहीं लेकिन कुछ अंशों में समर्थन करता हूँ। हमारे देश में जो पुलिस का वर्ग है यह बड़े महत्व का वर्ग है। लेकिन इस वर्ग के साथ इस सरकार ने इस ढंग से व्यवहार किया है और कर रही है कि जैसे अछूत लोगों के साथ व्यवहार किया जाता है। अछूतों की तरह से इन लोगों के साथ भी व्यवहार किया जा रहा है। यह हमारे लिए बिल्कुल ठीक नहीं है।

जहाँ तक इनकी मांगों का संबंध है, मैं आपसे जानना चाहता हूँ कि क्यों इन मांगों को ले कर इनको यूनियन बनाने की जरूरत महसूस हुई है यूनियन का विरोधी हूँ। सीमा पुलिस और सिविल पुलिस को यूनियन होना देश हित में नहीं होगा मैं इसका मख्त विरोधी हूँ। लेकिन हमें देखना चाहिये कि आखिर उनके सामने कौन सी कठिनाइयाँ हैं और किस कारण से ये यूनियन बनाना चाहते हैं। बहुत पहले से उनकी बहुत सी कठिनाइयाँ चली आ रही हैं। छान्डी छान्डी इनकी मांगें हैं जिनको आज तक पूरा नहीं किया गया है। उदाहरण के लिए मैं आपका बतलाना चाहता हूँ कि यदि किसी

पुलिस वाले की बदली दूसरे थाने में हो जाती है तो उसे काफी दिन तक उस थाने में सोना पड़ता है। चौबीसों घंटे उसको वहाँ ड्यूटी देनी पड़ती है। उसके बच्चे कहीं रहते हैं और वह स्वयं कहीं और रहता है। जब तक उसे मकान नहीं मिलता है तब तक उसे चौबीसों घंटे वहाँ रहना पड़ता है। चौबीसों घंटे उससे ड्यूटी ली जाती है। ऊपर के जो अफसर हैं वे उसे कभी सबजी लाने के लिए भेज देते हैं, कभी अंडे लाने के लिए भेज देते हैं, कभी शराब लाने के लिए भेज देते हैं और कभी कुछ और चीज लाने के लिए भेज देते हैं। घर के काम के लिए उसको भेज दिया जाता है। और जो भी छोटे छोटे काम हैं उन से वे करवाये जाते हैं आग पास धगर गड़बड़ हो जाए तो वह भी उसको जाना पड़ता है। उसको इतनी परेशानी का सामना करना पड़ता है कि उसका हिमाव नहीं लगाया जा सकता है।

इसके अलावा इन लोगों का जो वर्दिया दो जाती है वे कितने दिनों के बाद उनको मिलती हैं, उसको भी आप देखें। बहुत सी घाघली इस में भी बरती जाती है। उनको समय पर वर्दी नहीं मिलती है। पता नहीं ऊपर के जो अफसर हैं उनका इसमें क्या स्वास्त छिपा रहता है। उसको समय पर वर्दी न देना ठीक नहीं है। उनको अब कपड़े मिलने चाहिये सर्दी में जिस ढंग के कपड़े उनका चाहिये वे उनको मिलने चाहिये।

Shrimati Vimla Deshmakh (Amravati): Sir, there is no quorum.

Mr. Deputy Speaker: The bell is being rung... Now, there is quorum. He might continue his speech.

श्री हुकम चन्द कछवाय : मैं कह रहा था कि सरकार को पुलिसमैनों की वर्दी की तरफ विशेष ध्यान देना चाहिये

आज की बढ़ती हुई भयंकर महंगाई को देखते हुए, पुलिस के जवान की वर्तमान तन्ख्वाह पर्याप्त नहीं है। चूंकि उसको कम तन्ख्वाह दी जाती है, इस लिए वह अपने अधिकारों का नाजायज लाभ उठाता है। मान लीजिए कि एक पुलिसमैन को 110 रुपये तन्ख्वाह मिलती है और उसको अपने परिवार का खर्च चमाने के लिए 150 रुपये चाहिए, तो वह अपने अधिकारों का दुरुपयोग कर के और पुलिस के रूप्राव से बाकी के चालिम रुपये की पूर्ति करता है। अगर पुलिसमैनों की पूरी तरह से पेट-भराई की गई, तो उन में जो यह प्रवृत्ति बढ़ रही है, वह नहीं बढ़ेगी। यह ठीक है कि सभी लोग ऐसा नहीं करते हैं, लेकिन कहीं कहीं ऐसा देखने को मिलता है।

हम ने देखा है कि जब पुलिस के जवानों की ड्यूटी किमी मेले या दंगा-फ़साद के संबंध में लगाई है, तो उस समय न उन के खाने की चिन्ता की जाती है और न उन के सोने की। इस समय केन्द्रीय सरकार के कर्मचारियों और पुलिस के कर्मचारियों में जो काफ़ी अन्तर है, सरकार को उसको दूर करने का प्रयत्न करना चाहिए।

जब पुलिसमैनों से आठ घंटे से ज्यादा काम लिया जाये, तो उनको उचित ओवर-टाइम भत्ता दिया जाना चाहिए। मैं मंत्री महोदय से निवेदन करना चाहता हूँ कि हमारे देश में जो अनेक प्रकार की कुब्यवस्था फैलती है, उसका मुकाबला करने और देश में कानून और व्यवस्था को ठीक ढंग से बनाए रखने में पुलिस का बड़ा हिस्सा है। इस लिए अगर इस वर्ग को खुश और संतुष्ट रखा जायेगा, उसकी पेट-भराई की जायेगी, तो सरकार को देश में शान्ति और व्यवस्था बनाए रखने में बहुत सहायता मिलेगी।

जिन लोगों द्वारा पुलिसमैनों में वार-वार भ्रान्दोलन चलाए जाते हैं, वे यह मान कर चलाते हैं कि अगर इन लोगों की यूनियन बनाई जायेगी, इनको उमाड़ा जायेगा और इनको काम-काज में रोड़ा अटकाने के लिए मजबूर किया जायेगा, अगर पुलिस ने यूनियन बनाने और हड़ताल आदि करने का हथियार इस्तेमाल करना शुरू कर दिया, तो यह सरकार हमारे कानूनों में हो जायेगा। जो लोग पुलिस में इस तरह की बातें फैलाना चाहते हैं, मैं उनका विरोधी हूँ।

मैं चाहता हूँ कि सरकार कोई कमेटी या कोई सर्वदलीय समिति बनाए, जो पुलिसमैनों की छोटी बड़ी मांगों के बारे में विचार कर सके, ताकि इन लोगों को यूनियन बनाने और हड़ताल आदि करने की नीबत न लाए। इन लोगों के लिए वर्दी और क्वाटर आदि की उचित व्यवस्था की जाये। जिस प्रकार फ़ैक्टरीज के समीप ही मजदूरों की बस्तियां बनाई जाती हैं, उसी प्रकार थानों के पास पुलिसमैनों की कालोनीज बनाई जाये, जहां पर इनके बच्चों की शिक्षा और खेलने आदि की उचित व्यवस्था की जाये। जब इनकी बदली की जाये, तो इस बात का पूरा ध्यान रखा जाये कि जहां बदली की जा रही है, वहां इनके रहने की व्यवस्था है या नहीं। जब तक इनके लिए मकान की व्यवस्था न की जाये, तब तक इनको एक जगह से दुसरी जगह स्थानान्तरित करना उचित नहीं होगा।

मैं इस बिल का समर्थन करता हूँ, लेकिन सरकार को पहले ही ऐसे पग उठाने चाहिए कि पुलिसमैनों को किसी प्रकार उमाड़ा न जा सके और उनको यूनियन बनाने या भ्रान्दोलन करने की नीबत न आए।

Shri Sham Lal Saraf (Jammu and Kashmir): Mr. Deputy-Speaker, Sir, I have myself been a sympathiser of

[Shri Sham Lal Saraf].

trade unionism and trade unions for the last three or four decades. I very much like that our workers and our labour in the factories and in the fields should be looked after very well and that they should develop a sort of self-reliance also.

When we introduce trade unionism in any walk of life, it means two things, namely, they have to get their rights and have to observe their obligations. When we analyse our trade unionism from this point of view, I am very sorry to disagree with my hon. friend, Shri Nambiar. He only talked from one angle; rather, he has gone only on one track, as far as the rights are concerned. I very well agree that the rights should be considered in a particular manner. As far as the obligations are concerned, it is a question to be considered as to what obligations should a policeman or a watchman like a policeman have.

Before I say something about that, I would like to express that perhaps my hon. friends do not know that there are other services too in the country who have to face very many hazards, for example, the anti-smuggling squads and the income-tax people. There are a number of such services who sometimes have to work in the face of hazards and even get killed. A number of cases have come and are coming to light every day.

As far as the question that the police forces be given relief is concerned, I will say "Yes". Give them better service conditions, reasonable emoluments and good living conditions. Shri Kachhavaiya, and also Shri Nambiar, has said that a policeman, particularly of the subordinate services has to be on duty for long hours. It is never known how much time they have to give to their service. This also is a fact that senior officers do employ them on such works which do not behove them and which should never be given to them. The senior officers should not take that sort of work from them.

Because of the conditions through which this country is passing today, or for that matter through which any country may be passing, giving the right of forming unions to the policemen will be dangerous. Unfortunately, our trade unions only go one way; they only seek what are their rights. There are very few union leaders, maybe myself among them, who have very seldom been able to inculcate the spirit of discharging their obligations among the trade unionists. The way indiscipline is creeping in all walks of life, it would be dangerous, very much scandalous in a sense, if this type of trade unionism creeps into our police services.

What will happen to those people who look to them for their safety? For instance, Shri Alva said today and I also said the other day, that if on 7th November the police had struck work, what would have happened in this capital. Nobody knew what would have happened. My hon. friends have little knowledge of what is happening on the borders. You never know who passes on from my side of the border to the other side of the border and vice versa. My people who protect me there and on whom I depend that my hearth and home will be safe, if they form this type of a trade union, I do not know who will protect me there. How can that sort of confidence be created in me and many others? How can that be possible?

Keeping that in view, I would say to the hon. Home Minister, "Please look into their emoluments, whether their emoluments are reasonable and are what they should get." He should look into their service conditions, their living conditions and so on and so forth. Not only that. It often happens that policemen are sent on duty to some other areas and they seldom get T.A./D.A. These are the things which should be looked into.

Officers of higher hierarchy must treat the subordinate hierarchy in a

better way. They must treat them in a human way on humanitarian grounds. Then, as far as the entire service is concerned, it should be gone into to find out where the shoe pinches, so that all these people are helped. But to inculcate a type of indiscipline, political indiscipline, will be very dangerous for our country, for our civic life and everything.

I would not support what has been advocated by some of my friends there. But I would certainly say that this Bill should be passed and these people should know how they have to act, how they have to work, how they have to perform their duties and all that. I quite agree with one thing. I have a little experience of how our policemen work. They have played a wonderful part on our borders; they have done well during riots and have done many other things. It will take a lot of time to explain what service they have rendered. Our effort must be to see that when a policeman goes to the people, he goes as a messenger of peace and not as a messenger of *zulum*. That is the last word that I say in support of this Bill.

With these words, I support this Bill. But, at the same time, I urge the Government to go into their grievances and see what legitimate rights should be given to the policemen.

Shri Hari Vishnu Kamath: Mr. Deputy-Speaker, Sir, that the Government has come before the House with the Bill of this sort 17 years after the Constitution was promulgated bears eloquent testimony to the customary somnolent, if not somnambulist, manner in which they have tackled various problems and this one is no exception.

The problems affecting one of our finest police forces that we have had in this country, that we still hope to have for a long time to come in this country, should have been tackled much earlier. This morning's papers made strange reading,—and that is also a sequel to the manner in which the

Government has tackled the problems affecting the police force, that the policemen have gone on a protest fast against the consideration of the Bill in Parliament. It is very strange indeed that a Bill before the House should provoke a protest fast by the members of the police force outside the Parliament. But it is not so strange as was the fast embarked upon by a former Chief Minister of Bombay in Ahmedabad, when the Home Minister was a member of his Cabinet in 1956 for a certain purpose. It was very strange indeed. It was referred to in this House some days ago. The Chief Minister of Bombay had gone on a fast in 1956 when there was a bigger bilingual Bombay, when there were troubles in Ahmedabad and in Bombay city. The policemen probably argued that when a Chief Minister can go on a fast, why not they also do it. I do not want to go into the merits of the question. It is indeed a sorry pass to which the police force has been brought.

In the first instance, the Government comes forward with this Bill 17 years after the Constitution was promulgated. Various problems affecting the police have been raised in this House time and again during the last 15 years. Myself, along with my hon. friends, Dr. Singhvi, Shri Mathur, Shri Chatterjee and many others, have raised this matter. But every time the Government has shilly-shallded and dilly-dallied with their problems and has not tackled them in an earnest, thoughtful, considerate and deliberate fashion.

The policeman, as is very well said, is the friend, no less than the guardian of the people and so far as the overall security of the State is concerned, his position comes next in importance to the armed forces. It is well said that there is no liberty without discipline and, therefore, it is essential that the members of the forces charged with the maintenance of security, external or internal security, should be subject to discipline, and with that I agree wholeheartedly. But

[Shri Hari Vishnu Kamath].

having said that, is it not the duty of the Government, was it not the duty of the Government during all these years, to have had formulated a comprehensive police manual, a comprehensive police code of conduct?

Shri Hanumanthaiya (Bangalore city): There is.

Shri Hari Vishnu Kamath: Not a comprehensive one; I have seen that. At the time of his predecessor, Shri Govind Ballabh Pant, in the First Lok Sabha, I raised the question in 1956—I am both to talk about myself—and I had dealt with this matter in my own Party, the Praja Socialist Party, to which I have the honour to belong, which had set up a committee of which I was the Chairman and submitted a report about the police functions, particularly, with regard to the circumstances in which they could open fire. We had submitted the report and we had circulated the report to all the parties including the Congress Party. The other parties acknowledged the receipt of the report but the Congress Party did not bother to acknowledge the receipt of the report which we had submitted.

Then, there was another committee appointed by the Kerala Government, I remember, in 1958 or so over which my hon. friend, Shri Chatterjee, presided, when the Communist Government was in power. That committee also submitted a report. I do not know what action has been taken by the successor Kerala Government, the Congress Government, which came into power after the Communist Government was pushed out. I am not going into the merits of the *vimochan samaram*. We are here concerned with the police force and their problems. Having been so negligent, indifferent and lackadaisical with regard to the dealing with the problems which affect the police force, what have they actually done so as to ensure that these demands do not flare up into the manner in which we see them today. the

protest fast, some members of the police force threatening to form a trade union and things of that kind?

A few days ago, I was in Madras and I asked an ordinary constable as to what was his pay. He was reluctant, shy and hesitant to tell me the figure. I assured him that I was not going to tell anybody that he had told me that. Even then, he would not tell me the figure. Then, I asked him what was the annual increment. He was still hesitant and reluctant. Then he quietly said, 8 annas, that is, half a rupee per year and then he added that it was one rupee for every two years—it was some years ago; I do not know the position now—which means that he gets increment not every year but after two years he gets one rupee. And what are the scales for the officers? We have got officers and the secretaries to the Government who get an annual increment of Rs. 100. What a disparity? Is it with these scales that we are trying to achieve democratic socialism in our country to which the Congress Party, as much as my Party, aspires? Is it democratic socialism they are going to set up in the country?

I know, a Commission has been set up of which my hon. friend, Shri Mathur is also a Member along with me and my hon. friend, Shri Hanumanthaiya. The Administrative Reforms Commission is seized of this problem. But in 17 years they could have gone into some of the problems. I remember, one of the advices that Mahatma Gandhi gave to the Congress Party was: Your first task is to reduce the disparities in pay.

अमीरी और गरीबी के बीच में जो खाई है, उसको दूर करना चाहिये।

Even today, I am sorry to say, that the scales of pay and even increments are almost the same as they were in the British regime.

Then my colleagues talked about the other disabilities under which the Police force suffer. I know a case

personally in Madhya Pradesh. I would not mention the name. An I.G. of Police got a house built for him with what he called Shramdhan. Now 'Shramdhan' is a fashionable word. In olden days it went by the name of 'begar'. It has been abolished by the Constitution. Now it goes by the name of 'Shramdhan' and so it is lawful and Constitutional. Hundreds of constables carried bricks and did all sorts of menial labour to build this house for the I.G. of Police in Madhya Pradesh.

An hon. Member: When?

Shri Hari Vishnu Kamath: That was in about 1957-58, i.e., after the Congress Party came to power and not in the British regime. They would not do it; they are more strict and disciplined.

All these things are happening. I can catalogue many more things, but for lack of time I would not like to inflict it on you and on this House.

Now I will come to the main point, the main problem, with which we are faced, i.e., whether the Police could be allowed to form a trade union or should not be allowed. Article 19 is the relevant Article under which reasonable restriction could be imposed in the interest of public order, morality, etc. That, I believe read with Article 33 is the genesis of this Bill. Together they give the substance, the course of action so to say, for this Bill.

If I understand aright, a trade union once formed is also accompanied by the right of its members to strike. I do not know whether I am correct to say that. But I think that is the proper conception. The members of a trade union have a right to go on a strike. If a trade union is allowed to be formed by the Police, then the right to strike inevitably follows and it will be a disastrous thing if a policeman is to be allowed to exercise that right. We have got here a Bill which must be carefully considered by the members of the House

because it poses the question as to how to reconcile the exercise of fundamental rights with the security of the State. The Police is for internal security and the Armed Forces are for external security. The Armed Forces are not allowed to form a trade union nor do they have the right to strike. So also it is a wise thing to ensure that the Police are not allowed to form a trade union which includes the right to go on a strike because that will make any Government, whether it is Congress Government or Communist Government, collapse. My friend talked about the Communist Governments granting the Police the right to strike. I am sure any Government will collapse if the Police get the right to strike.

Now what is the position in other democratic countries? I have got a note—a very useful note—prepared by our competent Research and Reference Section of the Secretariat.

Mr. Deputy-Speaker: The hon. Member will try to conclude.

Shri Hari Vishnu Kamath: I will just take two more minutes and finish.

I am not going to bore the House with the detailed position obtaining in other democratic countries. I have studied the entire note and I find that the practice obtaining in Britain is a very wholesome and healthy one. Every one of us knows—most of us have been there and even those who have not been there have read about it—how admirably efficient the Police forces are in Britain and how they are friends as well as guardians of the people. I think this bears repetition. It is only half a dozen lines. I will read out the practice obtaining in Great Britain today and how it has been evolved during the last few years.

"Trade unions are not permitted for the armed forces or the police. Efforts to form a police union were made just before the First World

[Shri Hari Vishnu Kamath].

War and there were police strikes—the first fairly effective in London—in 1918-19. The result was the Police Act of 1919 which made it illegal for police to be members of a trade union but allowed representatives of the various grades to make formal representations."

That also—to make representations—, I think, will be allowed if this Bill is passed into law.

"In September, 1953, these were replaced by a new Police Council for Great Britain, a negotiating body on Whitley Council lines. It consists of an official and staff side, under an independent chairman, with the right to negotiate agreements on wages and conditions and when necessary, to go to arbitration, though the Home Secretary and the Secretary of State for Scotland have the power to reject or refer back such agreements."

Mr. Deputy-Speaker: We will conclude now.

Shri Hari Vishnu Kamath: One word more and I have done.

Shri Nambiar: Let Government bring forward something like that.

Shri Hari Vishnu Kamath: I am, therefore, entirely for this kind of Police Council on Whitley Council model and I do hope that the Home Minister, who was formerly the Defence Minister, would give a careful consideration to this aspect of the matter. As the present Bill makes no provision for this Council but refers to the right to set up a trade union with the express sanction of the Government without any reference to such a Whitley Council, I am sorry I for one at this moment, unless the position is made clear by the Government with regard to this aspect of the matter, cannot give wholehearted support to this Bill but I extend only a par-

tial support to the Bill before this House.

Shri D. C. Sharma (Gurdaspur): I yield to none in this House so far as the services rendered by the Police to this country are concerned, so far as the valuable services rendered by the Police on the 7th of this month when a very big insurrection was master-minded by some sections of the people, are concerned. If the Police had not been active on that day, perhaps things would have looked very different in this Capital.

I also sympathise with the Police force because whenever they open fire or do something to preserve law and order, the Opposition members start crying that there should be a judicial inquiry, they start clamouring that this matter should be referred to a judicial kind of body. This makes the Police sometimes very hesitant to take the right kind of action and for that, I think, the Opposition is responsible more than anybody else. It is they who try to sow in the minds of the people of this country seeds of distrust of the Police force. It is they who try to undermine their prestige, their power and their capacity to stand by the country and to serve the country. At the same time I cannot forget that I am one of those unfortunate members of this House—there may be many more a'so—who have not seen that useful document from which Mr. Nambiar read extensively. That does not matter. You can understand what kind of document it is, how it has been drafted and to what kind of person it has been sent. That does not matter. Even without going into that thing, I must say that the Policemen in the city of Delhi and New Delhi, the Policemen all over India, especially the Policemen at the lowest rung of the ladder, Constables, Head Constables, ASIs and all those persons who occupy very small places in the Police cadre, must feel the glow of freedom and must feel that they are living in a Welfare State. Who would say that they should not get interim relief?

Who would say that they should not get proper housing? Who would say that they should not get the proper kind of uniform? Who would not say that they should get some kind of promotion all along the line? Who would not say that they should not be made victims of favouritism and nepotism? I think no sane citizen of India, to whatever party he may belong, will demur to these suggestions. I know that the Home Minister Shri Y. B. Chavan is going to consider these things favourably and is going to make the policemen feel happier than before, more secure than before, more contented than before, and I have no doubt about it. I say this for one reason. Sir, I come from a border district. In my border district, there are so many check-posts and in those check-posts there are persons who belong to the border security force. I have visited those check-posts, and I have been bringing the grievances of those persons to the notice of the ex-Defence Minister and to the Home Minister in my State and I must say this good thing of Shri Y. B. Chavan; I am not trying to flatter him; it is no use flattering any Minister here because you do not know what may happen to them tomorrow. But I may submit very respectfully that Shri Y. B. Chavan has improved the lot of those persons who belong to the security police. He has given them better salaries, better amenities, better facilities for travelling and he is going to do something also about the education of their children.

I should say that the police force deserves a better deal. But is this the way of getting it with a trade union? What is the map of trade unionism in this country? One trade union is run by one political party, namely the Indian National Congress; another trade union is run by the Left Communists; a third trade union is run by the Right Communists; a fourth one is run by the Jan Sagh; a fifth one is run by the PSP and a sixth one is run by the SSP, and then there are some trade unions which are run by non-descript persons like

my hon. friend Shri S. M. Banerjee. We find therefore that the map of trade unionism in this country is so variegated.

श्री बाणर्जी : क्या बिना पोलिस के महारे ही चर रहे हो ।

श्री स० मो० बनर्जी : बाहर निकला, पुलिस वाले पकड़ लेंगे ।

Shri D. C. Sharma: Do you want to destroy the unity, solidarity and the cohesiveness of the police forces that we have in India today by having trade unionism in the police force also? If you want to do that, then you are welcome to have trade unions; then you will have trade unions formed on political lines, trade unions formed on economic lines, trade unions formed on linguistic lines and trade unions formed on communal lines, there will be Hindu trade unions and there will be trade unions belonging to another section and so on. Therefore, I would say that for God's sake, do not destroy the unity of the police force, the unity of thought, the unity of organisation and the unity of action they have and their unity of devotion to the country by having this kind of trade unionism among them. Therefore, I would say that trade unionism should not be allowed among the policemen.

Shri S. M. Banerjee: There will be more unity if the union is there.

Shri D. C. Sharma: I know what kind of unity my hon. friend is wanting to bring about; he and I are very good friends and so, I know it.

श्री बाणर्जी : क्या इसी नियो उन का संगठन नहीं होने देते ।

Shri S. M. Banerjee: I am his disciple.

Shri D. C. Sharma: If he is my disciple he should come over to this side.

So, I submit that this Bill is not against anybody. It is not against the police force. It is not against any

[Shri D. C. Sharma].

section of people. This Bill has been brought forward in order that the integrity of this country may be preserved. And the police force and the Army are the champions of this integrity.

I would submit that those persons who are supporting this Bill are greater trade unionists than anybody else. My hon. friend Shri Sham Lal Saraf has said that trade unionism gives them the right to strike and the right to political bargaining and so on. Since we are not going to allow trade unionism among the police force, I would submit that Government should keep in touch with the police force and see that their grievances are redressed at the earliest possible opportunity.

डा० राम मनोहर लोहिया (फर्रुखा बाद) : उपाध्यक्ष महोदय, पुलिस संघ बनाने की इतनी बड़ी आवश्यकता है, न सिर्फ़ इस लिए कि पुलिस के 15 या 16 हजार लोगों के हित की, रखा करनी है बल्कि इस लिये भी कि दिल्ली के नागरिकों, और इस तर्क के आधार पर भारत के समस्त नागरिकों, को व्यवस्था और अमन चैन की नई शकल दिखानी है।

आज कानून और व्यवस्था अपने देश में नहीं है। पुलिस का यह फ़र्ज है कि अपराध रोके। जब रोक न पाये तो उन अपराधों को प्रकट करे ताकि या तो अपराधियों को सजा दी जा सके या उन्हें सुधारा जा सके। यह पुलिस का काम है। लेकिन आप बखूबी जानते हैं कि अपराधियों में जो असंगठित और बिखरे हैं, साधारण लोग हैं उन्हें पुलिस पकड़ लिया करती है, लेकिन जो संगठित अपराधी हैं, जो अफीम, चरस, गांजा शराब इत्यादि का सेवन करते हैं, मोने की तस्करी किया करते हैं, उन को न सिर्फ़ पुलिस छूट देती है, बल्कि उन में हिस्सा भी बंटाती है। जब मैं पुलिस कह रहा हूँ तो पुलिस के बड़े लोगों से भी मतलब है, और बड़ों में गह मंत्रालय से नीचे तक यह

जाता है। सब हिस्सा लेते हैं। सिर्फ़ इतना ही नहीं बल्कि जो साधारण नागरिक अपराध के रास्ते जाते हैं उन में से कुछ तो पकड़े जाते हैं, मगर उन के साथ साथ जो बहुत गरीब होते हैं, जिन्होंने अपराध कभी किया नहीं उन्हें भी पकड़ लेते हैं और उन को यह रोज़ जबर्दस्ती आदतन अपराधी बनाया करते हैं। जाबता फौजदारी का अध्याय पांचवां हमारे यहां लोगों को अपराधी बनाने का नुस्खा बना हुआ है।

मैं समझता हूँ कि इस पुलिस यूनियन से गृह मंत्री जी को और दूसरे लोगों को इस लिये भी ज्यादा तड़पन हुई है कि शायद उस से एक नया संगठन शुरू हो जाय जिस से खास ढंग के अपराधों में कमी आ जाये। मुझे तो यह भी पता लगा है कि जब मैं यह यूनियन संगठन यमैरह बनने वाला है तब मैं अपराधों पर बड़ी निगरानी होने लगी है क्योंकि कभी एक या दो इक्का दुक्का पुलिस का नीचे का अदमी पकड़ा गया हो तो बात दूसरी है लेकिन अगर कहीं कोई बड़ा अफसर अपराध करता हुआ पकड़ा जाता है, और कोई उस को प्रकट करने की जिम्मत कर भी जाये, तो वह फौरन दबा दिया जाता है। लेकिन अगर पुलिस संगठन की उस के लिए रखा हो जाये तो ऊंचे स्तरों पर होने वाले अपराध का खोल कर रखने का माहम उसमें आ जायेगा और ऊंचे स्तरों पर जो कार्रवाई होती रहती है उन को रोका जा सकता है। यह इसलिए भी जरूरी है कि आज अगर आप पुलिस के आन्तरिक संगठन को देखें तो आपको पता चलेगा कि पुलिस में 16,000 अदमियों में से दिल्ली में आधा तर को बारीक करीब भेड़-बकरी और जानवरों की तरह इस्तेमाल किया जाता है। दूसरे देगों का यहां जिक्र किया गया। वहां आठ घंटे रोज़ उनकी ड्यूटी लगती है। चाहे अमराका हो, चाहे इंग्लैंड हो। लेकिन हिन्दुस्तान में चौबीस घंटे की पावरटी है। यहां 18-18 घंटे की ड्यूटी है। ड्राइवर

वीदार सिंह, पुरधनी पुलिस लाइन गाड़ी नम्बर डी० एल० पी० 3454 से 7-11-66 को 18 घंटे, 8-11-66 को 16 घंटे, 9-11-66 को 13 घंटे और 10-11-66 को 19 घंटे काम लिया गया। यह एक उदाहरण नहीं है, इस तरह के कई उदाहरण हैं। 16-16, 17-17 और 19-19 घंटे उन से ड्यूटी ली जाती है। आखिर यह क्या तमाशा है? क्या नतीजा निकलेगा इसका? मेरे पास इस तरह के पांच छः उदाहरण हैं जिन में उनको 8-8, 10-10, 15-15 और 24-24 घंटे ड्यूटी देनी पड़ी है। एक बार एक हड़ताल हुई, सां० ग्रॉ० डी० में, छावनी में। उस हड़ताल में रेलवे लाइन के ऊपर पुलिस वालों को सात बजे शाम से लगा कर सुबह सात बजे तक काम करने के लिए कहा गया। बारह घंटे की लगातार उन से ड्यूटी ली गई। अगर ऐसे मौकों पर पुलिस वाले जानवरों की तरह व्यवहार हड़तालियों या नागरिकों के साथ कर लेते हैं तो उनकी जिम्मेदारी उन पर नहीं आती है, उन अफसरों पर आती है जो उन्हें बारह बारह घंटे तक बिना सोए हुए काम में लगाये रखते हैं। उन्हें जानवर बना दिया गया है। इतना उनका हाल खराब है।

इसी तरह से आप देखें कि यहां जो पुलिस वाले हैं उन में से कितने सिपाही हैं और कितने दूसरे हैं। सिपाही कुल 10,407 हैं। उन में केवल 1190 को घर मिले हुए हैं यानी ग्यारह प्रतिशत को घर मिले हुए हैं। जो हेड कांस्टेबल से एस० आई० तक है उनकी कुल संख्या 3945 है और उन में से 521 को घर मिले हुए हैं यानी 13 प्रतिशत को घर मिले हुए हैं। इंस्पेक्टर से ऊपर वालों को अब आप लें, इंस्पेक्टर जनरल, सुपरिन्टेंडेंट पुलिस बगैरह को लें, उनको बड़े बड़े घर मिले हुए हैं, हर एकको मिले हुए हैं। एकड़ व एकड़ में इनके बगीचे हैं। यह सारा संगठन अपने देश का

इस तरह से आप देखें बरवाद हो चुका है। एक तरफ आप देखें कि पंद्रह हजार साधारण सिपाही हैं जिन को घर नहीं मिलता है और अगर घर मिलता भी है तो आप देखें कि उनकी कैसी हालत होती है। इसी संसद की सड़क के ऊपर एक कोने में आप जा कर देखें। वहां ऐसा मालूम होता है कि जानबूझ कर उनको जानवरों की तरह से रखा जा रहा है। वहां बिजली काट दी जाती है, पंखा उनको नहीं मिलता है। यह सड़क सड़क के ऊपर जो धाना है वहां इन लोगों को बिल्कुल जानवरों की तरह रखा जाता है। दूसरी तरफ बड़े लोग हैं जोकि पांच पांच, दस दस और दो दो और चार चार एकड़ जमीन पर महलों में रहते हैं। हर एक को महल मिलता है, हर एक को मकान मिलता है। अगर आपके पास जगह की कमी है तो क्या जरूरत है बड़े अफसरों को इतने बड़े बड़े मकान देने की? अगर जगह की कमी है तो क्यों नहीं बड़े अफसरों को छोटे मकानों में रखा जाता है और जो जगह बचती है उसका इस्तेमाल सब पुलिस वालों को मकान देने में किया जाता है?

सारा रोग घूम फिर कर अपने देश के बुनियादी संगठन की तरफ आ जाता है। हमारे देश में सिपाही और इंस्पेक्टर जनरल के बतनों को मेहरबानी करके आप देखें। मेरे शब्दों को आप याद रखें। मैं बतन खाली कह रहा हूँ, तनख्वाह की बात मैं कइ रहा हूँ, मकान की नहीं तथा दूसरी सुविधायें की नहीं। बतन में यहां करीब करीब 57 गुना का फर्क है। जिस अंग्रेज की तर्जा श्री कामत का रहे हैं। मैं वहां सिपाही और सुपरिन्टेंडेंट पुलिस के बतनों में सिर्फ दो गुना का फर्क है, सिर्फ दो गुना का और अमरीका आदि दूसरे देशों में दो गुना, तीन गुना चार या पांच गुना का फर्क है। यहां 57 गुना का फर्क है सिपाही और इंस्पेक्टर जनरल के बतनों में। अगर सुविधाओं को गिन लो तो पता नहीं पांच गो और

[श्री० राम मनोहर लोहिया]

छ: सौ गुना का फर्क हो जाएगा। वे कोई आदमी थोड़े रह गए हैं?

यहां तो दो बातें हो गई हैं। एक तरफ तो बड़ा आदमी है और दूसरी तरफ जानवर। जब भारत का संगठन इस तरह से बनता है तब उसके बाद आप चाहते हैं कि वे जानवर लोग जो अपना संघ बना कर अपनी हालत सुधारना चाहते हैं और देश की भी, उनको दबा दिया जाए? कानून की तरफ भी आप ध्यान दें। अपराधों की तरफ भी आप ध्यान दें। एक बड़ी मनमानी वाली इत्तिला में आपको देना चाहता हूँ। गात तबम्बर को श्री कामराज जी के मकान के मामले जो गद्दूत वाला सिपाही रहा करता था गूड मन्डिव के प्रादेग में उसको बंदूक उसके हाथ से हटा ली गई थी। वहाँ एक और लेलिस का आदमी था जिस के हाथ में पिस्तौल थी लेकिन वह सिपाही की बंदूक हटा ली गई थी। बंदूक छ: तारीख का थी, पांच का थी, सात का क्यों हटा ली गई? अब बात साफ यह होती है कि अपने देश में, अपराध कल्ल के, मौत के साधारण हो गए हैं। कानपुर में चन्द्र शेखर, प्रतापगढ़ में सिधरोली की रानी, और किस किस को मैं गिना दूँ? बस्तर के राजा भी हैं। और इत्तफाक से श्री कामराज के ऊपर भी वार होने वाला था। वहीं बड़े लोग जो सारे देश को चीपट किए हुए हैं कल्ल और खून का इस्तेमाल भी अपने राजनीतिक स्वार्थों के लिए करने में हिचकते नहीं हैं। ऐसी अवस्था में मैं आपसे बहुत डोर से कहना चाहता हूँ कि जरा उन दो पुलिस वालों की तरफ भी आप ध्यान दें जिन में से एक का नाम जेम्स है और जो 14 अगस्त 1966 को यानी कुछ ही महीने पहले सुई लगने से मर गया था, उसकी मौत हो गई है पुलिस लाइन में। उसे कोई पूछने नहीं गया, कोई जांच नहीं हुई, कोई उसकी सहायता नहीं मिली। उगा तरह से एक दूसरा सिपाही सुरज पाल बारह साल से नौकरी पर था,

नौकरी करते करते भ्रमन चैन करते करते उसकी टांग टूट गई। वह साढ़े पांच महीने अस्पताल में पड़ा रहा। यह लोक कल्याण जो पुलिस वालों के लिए बना है कोई मदद उसको उस तरफ से नहीं दी गई। अगर वे जैसा उनके साथ व्यवहार होता है, अपनी सारी बातों को भूल कर हमारे ऊपर जंगली बरताव करने लगते हैं तो मैं उसको समझ सकता हूँ, उसके लिए उनको दोषी नहीं कहता हूँ, मैं दांषी कहता हूँ गृह मंत्री और अफसरों को जो उन्हें जानरों की तरह रखते हैं। अगर इस बात को बदलना चाहते हो तब फिर सही मानों में भ्रमन, चैन और कानून और व्यवस्था के अर्थ को आपको बदलना पड़ेगा। लोग कहते हैं कि अगर ये पुलिस वाले संघ बना लेंगे तो राज कैसे चलेगा। मैं समझता हूँ राज और अच्छा चलेगा क्योंकि उस में व्यवस्था का मतलब बदल जाएगा। अफीम, चरस गांजा, भांग, शराब, तस्करी नहीं चलने पायेंगे। लेकिन यह हो सकता है कि ऐसे लोग जो पुलिस संघ में काम करते हैं जो सिपाही हैं या दूसरे हैं जब ऐसा मौका आए तो अपने अफसरों से यह कहें कि तुम्हारा जायज हुकम तो हम मानेंगे, लेकिन तुम्हारा नाजायज हुकम हम नहीं मानेंगे। आज भारत में सब से ज्यादा खराबी यह आ गई है कि कैसा भी हुकम हो उसका माना जाए। मुझे तो ताज्जुब होता है कि क्यों गृह मंत्री जी इस बात को नहीं समझते हैं। आज उनकी चल रही है। लेकिन कभी ऐसा मौका आ सकता है जबकि कोई अफसर, मन फिरा अफसर कह दे कि काम तो नमाम करो इन चहूबाण साहब का। तब आप कहो कि हुकम मान रहा था? हुकम दो तरह के होते हैं, एक उचित और एक अनुचित। मैं पुलिस के सिपाहियों का कहना चाहता हूँ कि अनुचित जो हुकम हैं, जो अनुचित प्रादेश हैं उनको मत मानो। उसके साथ मैं कहूँगा कि याद रखो कि पुलिस संगठन को चलाने में हमारे जैसे लोग आपकी आखिर तक मदद

करेंगे और आखिर यह सरकार कितने दिनों की है ? यह भी तो बहुत जल्दी खत्म हो गयी है।

Dr. L. M. Singhvi (Jodhpur): Mr. Deputy-Speaker, in my respectful submission, the question is not of the constitutional validity or the administrative expediency of this measure. If we were to look for a constitutional warrant for this present legislation, we would naturally go to art. 33 of the Constitution which very clearly says that 'Parliament may by law determine to what extent any of the rights conferred by this Part shall, in their application to the members of the Armed Forces or the Forces charged with the maintenance of public order, be restricted or abrogated so as to ensure the proper discharge of their duties and the maintenance of discipline among them'. So far as the question of administrative expediency also is concerned, the underlying principle of the Bill itself is demonstrably clear and convincing.

The question that concerns us most, however, is that of the conditions of service which have brought the morale of the services as a whole including the police service, to the lowest ebb in the history of this country. It is this which should be debated by this House, it is this which should form the concern, arouse the concern, of the House as a whole.

The move for organising the police forces into some kind of an association is a symptom of a malady, and the malady goes very deep because it touches of the warp and woof of the lives of the policemen in this country, indeed of the lower cadres of civil service in all the segments of the State's activities.

15.00 hrs.

I think and I hope that the police forces will find in the new Home Minister a sympathiser and a friend in so far as their conditions of work are concerned. It seems that their conditions of work are such as to give cause for alarm, not only concern

but cause for alarm, because their salaries are extremely low. The problems posed by rising prices are problems which have proved to be unsurmountable in the lives of these very low paid officials. The hours of work are long, the conditions of work difficult, trying, strenuous.

After all, a policeman is just another citizen with some trappings of arms in his hands, and today nobody can say that his work is not considerably hazardous, nobody can say that his conditions of work have not deteriorated; in the present circumstances it is almost impossible for a common policeman to keep his body and soul together.

That is why we find that even after independence, a man of the stature and eminence of Mr. Justice Mulla levelled serious accusations and serious allegations against the police force as one of the most criminally inclined band of persons. That was not an ordinary indictment, and it came from a man who had a life-long concern with the administration of justice....

Shri K. C. Sharma (Sardhana): The Supreme Court upheld the other side.

Dr. L. M. Singhvi:... who had a deeper understanding of law and order.

If there are factors which influence the morale of the services or of the police forces, I think the Government of this country and this Parliament must take serious notice of it at the earliest opportunity. This has not been done, and although we are assured, reassured, that the Administrative Reforms Commission is now said to be seized of the matter, I do not know whether it is proper and befitting for the Government to wait to solve this problem which is so obvious, which is so compellingly clear to any one who would merely care to look at the conditions of service of these policemen.

It is not only the question of physical conditions of work. It is a question

[Dr. L. M. Singhvi].

which also goes to some of the primary precepts of occupational psychology. Those who are interested in the process of administration would recall the Hawthorne experiment which demonstrated the importance of psychological conditions of work. It was clear from this experiment, although perhaps the precepts of this experiment can be overplayed and over-emphasized, that unless there are proper psychological conditions of work, the morale of the services cannot be very high.

I should like very briefly to quote an eminent authority or the morale of the services, who says.

"However high you raise the pay, however attractive you make the jobs to the sort of recruits you want, whatever mechanical and other devices you introduce to save human labour, you will not, by these means alone, extract from your organisation the highest quality or greatest output of work of which it is capable."

Of course, this is a far cry in the Indian context. Today, not to speak of the psychological job satisfaction provided to those in the services, there is the question of the bare minima of material physical conditions of work for those who are in the services, and it is this which the country should take note of at the very earliest opportunity, because the move to organise the police forces, after all stems from the extremely agonising, extremely trying and strenuous conditions of work in which the police forces, as indeed many other lower rungs of the civil service ladder, find themselves.

It is necessary, therefore, to salvage the morale of the services, it is necessary, therefore, that the Government should concentrate its efforts on ensuring that the services are able to give their best in the service of the country.

I should like, in this connection, to acknowledge that in almost all the advanced countries of the world, in

Canada, in France, in U.K., in USA, there exist similar, analogous restrictions which are sought to be imposed by this Bill, but, as my hon. friend, Mr. Kamath, referred, it is necessary to provide for some kind of in-service, in-built, organisation for redress of grievances, for taking up their service demands.

For example, in the United Kingdom there existed a Police Federation which had advisory functions, and since 1953 there exists a system by which a Police Council has been brought into existence with a negotiating body on Whitley Council lines. It consists of an official and staff side under an independent Chairman, with the right of negotiating agreements on wages and conditions, and, if necessary, to go to arbitration, though the Home Secretary and the Secretary of State for Scotland have the power to reject or refer back such agreements.

It is this kind of machinery which should have been incorporated in this Bill. It is perfectly permissible for the Government to bring about the legislation which they have brought up under article 33. There is, as I said, constitutional warrant as well as the dictate of administrative expediency for imposing these restrictions on the police forces as well as the armed forces, but at the same time such an administration restriction alone cannot be the answer. One would have liked very much, therefore, that this Bill itself should have included in it some machinery for a Police Council on the Whitley Council lines, some provision for a negotiating body, some machinery, some institutional framework where the policemen could ventilate their grievances, and these grievances would be dealt with in a sympathetic manner. If this is not done, let me warn the Government that the spent up feelings in the services, the fast declining moral in the services, is bound to find outlets which would not be good for the preservation of democracy.

I would also like to say here that in France, where a similar restriction was imposed, it was possible for the policemen, whose service grievances were not attended to, and were not listened to with sympathy, to paralyse the life of the community at least for some time. We do not want this to happen in this country. We do not want any political penetration or any political infiltration in the forces which are charged with the responsibility of keeping law and order in this country. It is, therefore, a timely warning that I should like to utter that these service grievances, that these problems of morale, of conditions of service, of the psychology in which these services function, should be attended to with the utmost expedition, and with the utmost sympathy, because it is on this foundation that even the democratic State, the democratic Republic of India, rests. If you tamper with the administrative framework, if you allow the administrative framework to be demoralised, if you do not produce conditions which are conducive to the most efficient functioning of the services, there is bound to come a day when the paralysis that would be produced in the services would undermine and would uproot possibly the democratic framework itself.

It is, therefore, in this spirit that I would like the hon. Minister to reply both in respect of the conditions of service of the police forces as well as to give an assurance to the House that some machinery would be devised, would be brought about, where service grievances and service difficulties can be ventilated and dealt with in a sympathetic and appropriate manner.

Shri N. C. Chatterjee (Burdwan): Mr. Deputy Speaker, Shri Kamath was right when he said that I was the chairman of the first Police Commission in India and I had to tackle this problem very closely. With me was associated a very big communist leader—naturally, as Mr. Namboodiripad appointed that Commission and he is today the Advocate General of Madras, a brilliant lawyer—Mr. Mohan

Kumaramangalam. Besides him there were other trade union leaders and we all came to the conclusion after taking evidence that we should not allow police forces to be linked up with any political association or trade union with any political affinity. I think it was a correct decision. I did so not because I was appointed by the communist Government. The communist Government was dismissed and I thought I had finished my task and I would not have to go on but both Mr. Nehru and Pandit Pant who was then the Home Minister asked me to continue and I continued and I had the opportunity of having consultations with the next set up which was entirely opposed to the old set up. After hearing them all, I came to that conclusion.

We have still got the old habit of approaching the police problems with antipathy. During the British regime, the country was struggling against the foreign rulers and the police was used as an engine of oppression and tortured the freedom fighters and therefore, that particular hang over is still there; it is rather undesirable. It is absolutely correct that in England which has maintained a very efficient and capable police force they have got a legislation which puts a ban on association with political parties. I have considered the point Mr. Shinkre raised and I was myself troubled whether this Bill was necessary or not. If the House is convinced by the hon. Minister that this Bill is necessary, there is no way out. Mere service rules will not do as they would be struck down as illegal by the High Courts or the Supreme Court. Sub-clause 4 of article 19 says that it does not prevent the State from making any law imposing reasonable restrictions in the interest of public order or morality. I do not think that under article 19(4) you can have a service rule interdicting all police officials from joining any trade union or political association. But article 33 deliberately puts down; the heading itself is: "Power to Parliament to modify the rights conferred by this part in

[Shri N. C. Chatterjee]

their application to forces." The forces mentioned are: the Armed Forces or the Forces charged with the maintenance of public order. So, the Constitution says that restrictions can be imposed by parliamentary legislation; there is no way out and the Minister is right in bringing in this Bill.

This kind of legislation is in England and if I am not wrong in Canada, Australia and probably in France also. Therefore, it is nothing extraordinary. The only thing that is to be said is this. We know the police is faced with very difficult and delicate situations. I was a member of the non-official commission appointed to deal with the police excesses and firing in Bengal with regard to the food movement. I had two very eminent colleagues—the ex-Chief Justice Mr. Sarjoo Prasad and Justice Mulla of the Allahabad High Court. We condemned the indiscriminate police firings and excesses. We ought to tell you and I think Home Minister should know that it is absolutely wrong to say that any political pressure was put by any parties with regard to the food agitation. The political parties were not there; there was a spontaneous upsurge due to acute distress caused by a hopeless breakdown of modified rationing. There were firings and other things and certain cases of arson which everybody deplored. But actually not in one case could we find any boy or any man who was killed when he was actually committing any act of arson or vandalism or destruction of public property. Supposing a jeep car was burnt at 9 o'clock in one place, you will be amazed to know that at 3 o'clock some police force is brought from Durgapur and they started firing, but not on the man who actually committed the crime but indiscriminately. This kind of thing should be stopped. I am sorry to say that the police forces drafted from outside the State really did these things. The Bengal police behaved on the whole well. I do not want to name them but the police which was brought from

outside from Bengal felt: we have come here to teach the people a lesson. They started teaching the people a lesson by this kind of indiscriminate firing. That should not be done.

On the 7th November, here in Delhi the Delhi police behaved very well. I have not merely heard some of the eye witnesses; I heard people who were connected with the movement. They have assured me that on the whole the Delhi police behaved very well under very difficult and dangerous circumstances. Actually one Delhi police man was killed—not the police man who were brought from outside. If there was any tension created by police excesses, that was not done by the Delhi police but by others brought from outside.

I want the Minister to say clearly one thing, Mr. Chavan is known to be a democrat and I hope although he is the Home Minister he has still some instinct of democracy left in him. He must clearly say that he is not banning all associations. If that is the intention this Bill should be fought tooth and nail by every Member not only on this side but by all who believe in democracy. You cannot shut out consultations. I can understand that political associations should be banned or that trade unions with political activities should be banned. But there must be some organisation whether you call it the police commission or the police council whereby the grievances can be focussed and communicated to the Minister and higher authorities and brought before Parliament if necessary. You cannot ban all associations. I do not think that it is the intention to interdict completely any kind of association. May be the penalty imposed is too high. If the Minister makes it clear that there shall be normal methods of communication, associations unconnected with political parties manned by police forces which will focus their grievances and place them before the authorities acting in a constitutional manner, then there could be no opposition. But if that is in any way

banned, and it goes so far as to stop all communications and all dialogue between the ruled and the rulers, between the ministry and the police forces, then we should all oppose and this should not be adopted by the House because that will create danger ahead and it will be unfair and grossly inequitable and against the spirit of both the Constitution and democratic Government.

Mr. Deputy-Speaker: The hon. Minister.

श्री जगदेव सिंह सिद्धान्ती (मज्जर) :

माननीय चह्वाण साहब, अपने समय में से वो मिन्ट मुझे दे दीजिये, फिर आप बोलिये।

The Minister of Home Affairs (Shri Y. B. Chavan): I have been called by the Deputy-Speaker:

Mr. Deputy-Speaker: All right; let him say a word.

श्री जगदेव सिंह सिद्धान्त : माननीय

उपाध्यक्ष महोदय, मैं जब हाउस से निकलता हूँ और अपनी 9 फुट लम्बी और 9 फुट चौड़ी कुटिया में पहुँचता हूँ, सारे दरवाजों पर जहाँ भी पुलिस का जवान मिलता है, कहता है कि क्या कर रहे हो? मैं आदरणीय चह्वाण साहब से यह कहना चाहता हूँ कि इन बहादुर सिपाहियों और जवानों को बिखारी मत बनाइये, ये राष्ट्र के रक्षक हैं, इन को गुजारा करने का पूरा साधन दें, आप यूनियन बनाने दें या न बनाने दें यह आप की मर्जी है, लेकिन यदि आपने इनकी तरफ ध्यान नहीं दिया, तो वह सैनाब आयेगा जो न सरकार को बल्लेगा और न जनता को बल्लेगा। बस मैं इतना ही कहना चाहता हूँ।

Shri Y. B. Chavan: Mr. Deputy-Speaker, Sir, I have heard all the speeches with all the attention that they deserved. I must say that those Members who have opposed this Bill, and certainly those who supported the Bill also have certainly done one good thing; that they have certainly highlighted the purpose of this Bill, the purpose for which this Bill is being brought forward. I need not go into the constitutional aspect of it, because most of them who supported the Bill

have said that it is essential. But one argument has been repeated by more than one Member, and that is, why is it that this Bill was not contemplated so long, for the past 15 or 16 years after the Constitution had made this provision, and why is it that it is only now that the Government is thinking of bringing in this Bill.

Some hon. Members have asked whether the Government have lost their confidence in the police force or whether the police forces have lost their faith in Government. I would say that nothing of the sort has happened. Even while speaking on the motion for consideration of the Bill. I said that I have nothing but praise for the way the police force has functioned in this country; even in this city, the latest proof, if proof was needed, was seen on the 7th November. And therefore, it is not that we have lost our confidence in the police force. Our confidence is there as it was before, and it will continue to be there for days to come or for years to come. But certainly I have lost confidence in some of the agencies which are trying to tamper with the loyalties of the policemen. That really speaking is the wrong that has been done. Even now, unfortunately, the hon. Member Dr. Lohia made a speech as usual; he never cares about what other people have to say about it. He appealed to the policemen, and he told the policemen not to obey orders if they consider them improper. He has given this right or discretion to the policemen, to decide what is proper and what is improper. He has given this right to the constable. The constable has to work on occasions immediately and he can only act on the orders of his superiors. Whether the superior has given a proper order or an improper order, is a matter for which there are other ways of judging.

Shri Joachim Alva: If he says it outside the House, he will be liable to prosecution.

Shri Y. B. Chavan: If such speeches can be made by such responsible people on the floor of the House, we have all to listen to them; and the whole country listens to them; we are

[Shri Y. B. Chavan]

all responsible leaders and we should not make such speeches, in respect of the duties of the policemen. But this is being supported and that is what is happening in this city. Speeches have been delivered and wrong types of instigation have been resorted to. But it is, really speaking, very creditable to the police force that despite all this instigation, they still remain good; it is certainly creditable them.

I do concede one thing. There are grievances of the police force. I must concede that, I have almost one half of my public life been dealing with police problems. Before I entered the high offices of Government, along with many other political workers in this House, or in this country, we had to deal with police personnel. Later on, I dealt with these problems for six years as Deputy Minister in the Home Department; later on, as Home Minister for nearly 12 years I have been dealing with the police problems, and I do concede that there is certainly a large scope for looking into the problems of the police. Let me say this with all the sincerity that I can command: that I consider, as the Home Minister, the head of the family called the police force, I think it will be my duty and my responsibility to say that I am responsible for piloting this Bill in this House, and I must assure this House and at the same time assure the policemen of Delhi that it is not only my legal responsibility and duty but my moral duty and responsibility to see that their genuine grievances are redressed and redressed sooner rather than later.

15.25 hrs.

[SHRI SHAM LAL SARAF in the Chair]

Shri N. C. Chatterjee: An association for that purpose.

Shri Y. B. Chavan: He has referred to that, and I will not conclude my remarks without replying to that point. Let me say that this Bill is not against police force; it is not against the members of the police force; it is not for punishing them. But there has

been propaganda outside that this is a *Kala Kanoon*. I must say it is not so. When it is found that it is necessary to have associations, and associations are permitted even under this Bill, when we feel that associations are becoming necessary, than that is the time when we will come before this hon. House for a law which will ultimately permit them to have associations but in a regulated way which the Constitution itself has contemplated.

Shri Nambiar: This Bill does not give any inkling of such a thought.

Shri S. M. Banerjee: Accept the amendment.

Shri Y. B. Chavan: I think they can have an association with the previous sanction of the Government.

Shri S. M. Banerjee: How, unless there is a provision?

Shri Y. B. Chavan: I would tell the hon. Member who is a veteran public worker, that I really was wanting to say that he should rather try to learn the law. I do not say that, but I wanted to say that, he being a veteran worker. The purpose for which an association can be had is also mentioned what is mentioned is that they can certainly have an association with the previous sanction of the Government. The idea is not to debar them from having associations for the purposes which clause 3 mentions. Certainly, it will be there. But the intention is not to allow them to get mixed up with the trade union movement.

Shri Shinkre: Not to allow trade unionists to mix with the police.

Shri Y. B. Chavan: Very much so. So, the point is not to debar them from having their own association, but it must be their own association. I do not want any political association or political influence to come in and mix up with the police force nor could any other trade union influence be mixed up with the police associations. That is really speaking, the basic approach to this problem.

As I said, I concede that the housing conditions of the police force require very immediate attention. Their service conditions certainly do require immediate attention. It was with that very precise purpose that the Government appointed a Police Commission. This Police Commission is meant for the Delhi Police. The former Chief Justice of Punjab, Justice G. D. Khosla, would be the Chairman of this Commission. Shri Ram Sharma would be a member and another very distinguished police officer, Shri B. N. Mullick, who retired very recently, will be the other member of this Commission. I would like here to read the terms of reference of the Police Commission. This Commission will enquire into and make recommendations on the conditions of service, work and living of non-gazetted members of the police force of the Union territory of Delhi, and measures necessary to promote their efficiency and welfare. Though such a Police Commission is appointed for the first time for the Delhi Police, some States have appointed Police Commissions, as Shri N. C. Chatterjee himself has mentioned. He was the head of the Police Commission for Kerala and I remember to have read some of the recommendations of that Commission and I was myself encouraged to appoint a Police Commission in Bombay in 1962, before I came here. I know many other States have appointed police commissions.

The question of housing for the police creates great problems. I remember to have discussed this question when I was Home Minister of Bombay with the then Union Home Minister, Pantji. He started a scheme of giving very liberal loans for this purpose and in the last 8 or 9 years, nearly crores of rupees have been spent to improve the housing conditions of the police in the country.

Shri N. C. Chatterjee: Are you referring pay scales also to the Khosla Commission?

Shri Y. B. Chavan: It says "conditions of service, work and living of non-gazetted members of the police force in the Union Territory of Delhi". It does include pay scales.

Shri Namblar: It is very vague.

Shri Y. B. Chavan: It is very comprehensive. I am sure the commission would interpret the terms of reference correctly and include the necessary questions to be examined by them.

This Bill is not meant to stop some healthy activity. The intention of this Bill is to see that such activity is much better regulated. Certainly we have reached a stage when these people need to have their own association. So, it is better we give them a proper lead in this matter. This Bill is called Restriction of Police Rights Bill because that is what the article in the Constitution contemplated. But the purpose is not to come in the way of police welfare, but to help the welfare of the police in a wise and proper way.

I must repudiate some allegations made by Dr. Lohia. He himself said that he wanted to give some sensational information to the House. That is what they are interested in doing—make some sensational statement. He said some constable with a rifle standing in front of Mr. Kamaraj's residence under the specific orders of the Home Secretary . . .

Shri Shinkre: In this country, we don't have a Home Secretary; he is Secretary for Home Affairs. The term Home Secretary has got a different meaning in England. It creates a lot of confusion.

Shri Y. B. Chavan: I am talking of India, not England. I have tried to get the information. Such allegations are made without giving proper notice.

Shri S. M. Banerjee: He has made it long ago.

Shri Y. B. Chavan: I heard it for the first time on the floor of the House today. I asked our officers to get the information from the I.G. The I.G. says that there was no constable with a rifle posted outside Mr. Kamaraj's residence on 7th and no rifle of any constable was removed under the orders of the Secretary for Home Affairs. Such cheap allegations should not be made in this House.

Mr. Indrajit Gupta said that some negotiations were held with my predecessor.

Shri S. M. Banerjee: With Mr. Hathi.

Shri Y. B. Chavan: He also was my predecessor; he was Minister of State in the Home Ministry. My information is, they certainly had some discussion whether it should be called an association or union. They had some other talks also. These are the three categories. What the Home Ministry can directly deal with, the Home Ministry will deal with that. What the Minister can do, he will certainly do. But whatever remains which requires more detailed deliberation, that can be considered by the police commission.

Shri S. M. Banerjee: They were told by Mr. Hathi that they cannot have the right to strike, which they readily agreed to. I have got a copy of their constitution which says they shall not strike.

Shri Y. B. Chavan: Maybe, so. Later on some of them asked permission to see me. I refused because I did not want to get involved without knowing the full conditions. I wanted to approach it more systematically. It is much better that the constitution is properly approved, the association is properly organised and sanctioned and then they can work on that basis.

Shri Namblar: How is it possible without your previous sanction?

Shri Y. B. Chavan: The difficulty is the hon. Member has functioned only in the trade unions and so he does not

know anything about this. He will know in course of time how it can be done. You yourself said that you have no knowledge about associations of police. That is why you do not know how it can be done.

Shri Namblar: It is a question of common sense.

Shri Y. B. Chavan: Your common-sense tells you it is not possible; my common sense tells me it is possible.

Mr. Chairman: He may kindly address the Chair.

Shri Y. B. Chavan: Yes, Sir. I am sorry.

We decided to bring this Bill now and not before because the situation has arisen now that there is a possibility that the discipline of this very important police force is likely to be tampered with by certain agencies. If you see the different agitations in the country, on many occasions you will find the police is made the target. On one side they are made the target of attack; on the other side, they are made the target of sympathy. They try to attack them from outside and they try to disorganise them from inside. That seems to be their strategy. I would appeal to this House and to the country that certainly we have our duty towards the police force and that duty will be discharged. They are a very valuable instrument of security of this country. We have their welfare and comforts nearer our hearts and we want to do our best for them.

Shri Shinkre: I raised some objection to the penalty clause No. 4.

Shri Y. B. Chavan: That is an important point. The provision in this Act is taken from the parallel provision in the Navy Act, but there is some improvement in this because the alternative of fine is provided upto Rs. 2000; that is the maximum. In the Navy Act, there is no provision for fine as an alternative. The hon. Member need not get unnecessarily frightened about it.

Shri Shinkre: My worry is only whether it is constitutionally correct or not.

Shri Y. B. Chavan: Constitutionally it is very much correct; the hon. Member need not worry about it. How is it that we have this provision? Because this very provision is made for the police force on the lines of the Acts for the navy, army and air force, this provision for penalty is on the same parallel.

Mr. Chairman: The question is:

"That the Bill to provide for the restriction of certain rights conferred by Part III of the Constitution in their application to the members of the Forces charged with the maintenance of public order so as to ensure the proper discharge of their duties and the maintenance of discipline among them, as passed by Rajya Sabha, be taken into consideration."

The motion was adopted.

Clause 2—(Definition)

Mr. Chairman: We shall now proceed with the Bill clause by clause. There are some amendments to clause 2. Does any hon. Member want to move his amendment?

Shri Nambiar: Sir, I beg to move: Page 2, line 8,—

after "person" insert—

"above the rank of a Head Constable".

Sir, clause 2(a) reads like this:

"'member of a police-force' means any person appointed or enrolled under any enactment specified in the Schedule;" (6)

If my amendment is accepted, it will read:

"'member of a police-force' means any person above the rank of a Head Constable appointed or enrolled under any enactment specified in the Schedule;"

Here the question of trade union as well as association is taken up. I have already made it clear in my speech that I am not worried whether the word is "association" or "union". If the word "union" is to be deleted and the word "association" is to be brought in, I am for it and I have no objection. Secondly, if you do not want to give them the trade union right, the right to strike, then also I agree and the right to strike may be taken away. Their union in Delhi is now known as the Delhi Police Non-gazetted Karmachari Union. If it is to be changed as the Delhi Police Non-gazetted Force Association, there cannot be any difficulty if that can be accepted. In their constitution they have already agreed, as Shri Banerjee pointed out—he has gone through their constitution, I have not—that they are not for strike. I want to know whether the Government can accept an association of this type and that association can represent their reasonable grievances to the Government. That will satisfy us.

But here the provision in the Bill is:

"No member of a police-force shall, without the express sanction of the Central Government or of the prescribed authority,—

(a) be a member of, or be associated in any way with, any other society, institution, association..."

Again, in the penalty clause it says:

"Any person who contravenes the provisions of section 3 shall, without prejudice to any other action that may be taken against him, be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to two thousand rupees, or with both."

Here, "any other action" means, dismissal etc.

Now, the trade union is barred. Suddenly an association cannot come

[Shri Nambiar].

from the sky. An association of police force must be organised from below. Any police constable or member of the force who becomes a member of an association which is not sanctioned will have to undergo an imprisonment of two years. Which police force will come to form an association? How can they form an association? Before forming an association, if I am a police Head Constable, I must write a petition through my department to the Inspector-General of Police to the Government of Delhi or Madras and ask for permission. That is what is provided for under this law.

Mr. Chairman: Is he speaking on his amendment?

Shri Nambiar: Yes.

The Deputy Minister in the Ministry of Home Affairs (Shri P. S. Naskar): He is not.

Mr. Chairman: Let us see how he ends.

Shri Nambiar: I am speaking on my amendment. Sir, the Deputy Minister is a little mischievous.

Shri P. S. Naskar: I cannot beat you.

Shri Nambiar: Supposing I am a Head Constable and I want to form an association—the hon. Minister says that associations are allowed—I must write through the Inspector-General of Police to the Madras State Government.

Mr. Chairman: The questions is, you have to make it clear what difference it will bring in favour of the association if it is put in "above the rank of a Head Constable".

Shri Nambiar: I am doing that. I was saying, if I as a Head Constable wants to form an association I must get the sanction of the Inspector-General of Police. He will not sanction unless the Government sanctions. So the Government must say that 'Shri Nambiar, once a Member of Par-

liament and now a Head Constable—if I become a Head Constable at all—is hereby authorised to organise an association". Only on receipt of that letter I can form an association. Suppose I give any other name as Ramaswamy or Kandaswamy, they might say that I have got my agents in the police force and that is why I am putting it on my own shoulders. Then I must call my colleagues in the police force, tell them that I have got permission from the Inspector-General and the Chief Minister of Madras, Shri Bhaktavalsalam, to form an association and they can all become members. Only then I can form an association.

That means somebody must bell the cat. Who is that somebody? There will be nobody. That means the Chief Minister or the Home Minister or the Inspector-General of Police will call X, Y or Z, their own henchmen and ask them to form an association. That will block any genuine association that may spring up on behalf of the police force. What all they say that there is no objection to forming an association etc., is all on paper. It can never materialise and no police force can do it. I am glad that Shri Chatterjee and others have pressed this point. My humble submission to Shri Chatterjee and my other colleagues here is that we have dealt with this Government for the last several years and we know how they behave. Do not believe in what they say, that they will allow free association in the police force and all that, because that will not come about. That is why I have brought this compromise formula. Leave alone the sub-inspectors and inspectors; my submission is that "member of a police force" must at least mean any person above the rank of a Head Constable for the purpose of this legislation. That means a Head Constable may be permitted to form an association and when that association is formed the Government can call that association and discuss their problems. If they can have an association of this type, they will agree.

Therefore, the right of forming an association must be without any precondition, otherwise no real association will ever come up. That is exactly the reason why I say that this amendment should be accepted.

Further, the hon. Minister and I agree on one point. We have hundred and one disagreements, but one agreement. He is for a genuine association for the police force—that is what he stated—and I am also for that. Let us find out a compromise formula, by his accepting my amendment. Anyhow, you are not for banning it completely and make it a completely closed affair. When you are for granting it, at least give it a proper formation, a proper method to form an association. Let that right be vested in them so that it can be used when necessary.

Shri D. C. Sharma: My hon. friend is confusing between "association" and "union". When I was at Lahore, I wanted to form an organisation of teachers and we went on quarreling over the two words "association" and "union". An association is a kind of voluntary organisation which has no political repercussions, which has no aim of collective bargaining, embarking on a strike, etc. It is only a welfare agency, a kind of get-together. A union is a body which aims at collective bargaining, which has as its objective the right to go on strike and all the rest of trade union activities. My hon. friend says that there is no difference between an association and a union. So, I think what he means to say is that the hon. Minister should accept his suggestion to form an association; then, he will go there and ask them to change the word "association" to "union". That will be the thin end of the wedge. I will say that the right to form an association will be given, but it will be only a social, recreational and educational or cultural kind of association; it will have no political or trade union ob-

jectives. I think that has been made clear in the clauses. So, I do not know why Shri Nambiar, during the course of his speech, referred to Shri Bhaktavatsalam and other Ministers.

Shri Nambiar: A professor can teach me. How can I teach a professor?

Shri Y. B. Chavan: The hon. Member has his own logic; but it is wrong logic. His whole concept of the Bill is that it does not permit the formation of an association. That is his basic reading of the Bill; that is his promise, and it is exactly that I am disputing. It is not so. And it is on that presumption that he is trying to exclude head constables and constables from the operation of this Act, so that they may be free to form an association. What I am trying to tell him is—I am sorry, I did not meet with success earlier; I do not know whether I will succeed even now—this Bill does not come in the way of the police forces as such having their own association. He was rather intrigued by the possibility of how the whole thing starts. That is the trouble. If necessary, instead of the IGP, I can have a model constitution made for the association and circulate it to the police forces. So, you can certainly have an organisation on that basis; they can begin with that as a sort of nucleus. That is why I say that he is unnecessarily confused about the possibility of the formation of the association. If his amendment is accepted, it completely takes away the whole basis of the Bill. So, I cannot accept it.

Mr. Chairman: I will now put amendment No. 6, moved by Shri Nambiar, to the vote of the House.

Amendment No. 6 was put and negatived.

Mr. Chairman: The question is:

"That clause 2 stand part of the Bill".

The motion was adopted.

Clause 2 was added to the Bill.

Clause 3.—(Restrictions respecting right to form association, freedom of speech, etc.)

Shri Namblar: I beg to move:

(i) Page 2, line 18,—

after "associations" insert—

"except an association of their own to improve their own lot" (7)

(ii) Page 2, line 20,—

After "organisation" insert—

"which is not their own association" (8)

(iii) Page 2, lines 35 and 36,—

omit "or for such other purposes as may be prescribed" (9)

Coming to my amendment No. 7 I want to say that it has nothing to do with politics. If my amendment is accepted, the clause will read as under:

"No member of a police-force shall, without the express sanction of the Central Government or of the prescribed authority,—

(b) be a member of, or be associated in any way with, any other society, institution, association or organisation, except an association of their own to improve their own lot, that is not recognised as part of the force of which he is a member or religious nature".

If my amendment is not accepted, then the sub-clause will look ridiculous. Let us see how it reads without the amendment.

"No member of a police-force shall, without the express sanction of the Central Government or of the prescribed authority,—

(b) be a member of, or be associated in any way with, any other society, institution, association or organisation that is not recognised as part of the force of which he

is a member or is not of a purely social, recreational or religious nature;"

What does it mean? You are bringing in jungle law. A member of the police force, constable, head constable or sub-inspector cannot associate himself with an institution, association or organisation that is not recognised. There may be a reading room, a football club or sports association of which he wants to become a member. That is banned. This is a very harsh and all-powerful provision. Even if you want to restrict their rights, do it in a mild and normal way, but not by adopting such sweeping provisions. Now, if an association is formed and that association is recognised, if a member of that association comes into contact with the member of another association, of the police force or some other forces, that will be punishable.

If the hon. Minister has got any difficulty in accepting my amendment for the reason that it comes from me, I have no objection to his accepting some other amendment and changing the provision. Now, as it is, the clause is ridiculous and very sweeping in its powers, to be kept in the statute book. I hope he will not be so obstinate as to disregard this amendment, because it comes from me. If it is a reasonable amendment, he should accept it. Sometimes, even when I say very good things, he disregards them because I say them. Please do not do that.

My amendment No. 8 seeks to insert the words "which is not their own association" in line 20 after the word "organisation". Alternatively, you can say: you can associate with an association which is your own, or, you cannot associate with an association which is not your own. There should be a positive approach to the problem. Do not be blind to realities.

Then I come to my amendment No. 9. Now sub-clause (2) of clause 3 reads:

"No member of a police-force shall participate in, or address, any meeting or take part in any demonstration organised by any body of persons for any political purposes or for such other purposes as may be prescribed."

My amendment seeks to delete the words "or for such other purposes as may be prescribed". The purpose of this legislation is to see that they do not indulge in political activities, they do not get influenced by political speeches and politicians. If that is so, the words which I seek to delete are not necessary. The clause, even without those words, will serve the purpose, because it will read:

"No member of a police-force shall participate in, or address, any meeting or take part in any demonstration organised by any body of persons for any political purposes".

16 hrs.

Put a full stop there. That will make your position clear, namely, that they should not be allowed to take part in political activities. Why do you again put such a vague and all-comprehensive additional qualification as "for such other purposes as may be prescribed"? Prescribed by whom? By the rules. What the rules will be are yet to be seen. And we want to legislate on that. What I submit is that the purpose, as the hon. Minister explained in his speech, can be served by this much and my amendment can be accepted.

The hon. Minister, while he spoke on the association affair, told us that I am unable to understand how the association could be formed. He was also good enough to say that a model constitution can be given by the Ministry. I am thankful to him for that. But I want to be somewhat more clear about it. After this enactment will his Ministry or department issue a circular explaining how an association can be formed? A model of it can be

circulated to the police forces. Once that circular goes out, the police force must be allowed to sit together, discuss and debate it among themselves, whether they can take advantage of this circular and form an association. That must be permitted and that should not be taken as an act of indiscipline or that should not be curtailed. The police officials high above, the IG and others, should really allow these people to decide upon this association. Once that association is formed by them and its constitution is accepted and is forwarded to the Ministry, the Ministry must accord recognition. Then I am satisfied. It is not a question of my being confused. I want to know whether the hon. Minister is clear in his mind and whether he can assure the House that such a procedure will be followed. What happens is that he will agree here but when he goes out the Inspector General of Police or the Secretary of his Ministry will come to him and say, "If you allow this, it is the same thing that they wanted; do not do that". I know of cases how these things are done.

This House must be assured that we are not passing a Jungle law—a lawless law is different, but a jungle law—because we have got our responsibility to the citizens and our electorate, the voters. Policemen are also our voters. We are answerable to them also. You may not agree with me here, but when I go home I meet policemen in mufti. They come and meet me. At least they must be allowed to do that because they have voted for me and I must be allowed to talk with the policemen in mufti, not with their hats on and shoes down but at least in mufti. In that way I must be answerable to them. So, I must go and convey to them that they can form an association and Government will not stand in the way; that they will not be penalised and will not go to prison for two years for being a member of such an association.

Shri S. M. Banerjee: Sir, I rise to support amendments Nos. 7, 8 and

[Shri Nambiar].

9 moved by my hon. friend, Shri Anandan Nambiar. While replying to the debate on the general discussion, the hon. Minister said that perhaps we did not understand the legality of such legislation where, according to him, some associations were permitted. May I, for his information, read clause 3, sub-clause (1) (b) which says:—

“be a member of, or be associated in any way with, any other society, institution, association or organisation that is not recognised as part of the force of which he is a member or is not of a purely social, recreational or religious nature;”.

Mr. Chairman: Amendments Nos. 7, 8 and 9 moved by Shri Anandan Nambiar are before this House and he should speak on these three amendments.

Shri S. M. Banerjee: I am speaking only on these

Now, suppose, the RSS is regarded as a religious organisation or the Sadhu Samaj is regarded as a religious organisation, He can become a member of that. He can go to the *mandir, masjid, gurudwara and gir-jaghar*. That is allowed and we are very happy about it; but it has to be recreational or purely social—social also is unadulterated social; it should be purely social.

What is missing from this Bill is the right to form an association. Yesterday, when this Bill was introduced, I rose on a point of order saying that the police force, which may be 14,000, 15,000 or 20,000 in Delhi and lakhs throughout our country, are the sons of our soil; they have worked for the interests of the country; they have defended our motherland; we have appreciation for them—sometimes we condemn them for their goondalism which they do—and to form an association is a fundamental right. On that the Speaker, in his wisdom,

could not give his ruling. He said that this was a constitutional matter and it should be decided in a court of law. So, I requested yesterday that the Attorney General may address this House on this issue.

Where can that association be formed? It says:—

“No member of a police-force shall participate in, or address, any meeting or take part in any demonstration organised by any body of persons for any political purposes”.

Yes, he should not; he should not indulge in politics. But then it says:—

“or for such other purposes as may be prescribed.”.

We do not know what is prescribed. We do not even know what would be the rules after this.

When we say that they should be allowed to form an association, I know the difference between ‘union’ and ‘association’. May I explain to my very respected friend, Professor Diwan Chand Sharma, whom we generally call our professor, that we know the difference. A union is registered under the Indian Trade Union Act of 1926. Even the Central Government employees—there are many types of employees in the Central Secretariat, Survey of India, Directorate of Publications and others—cannot form a union under the Trade Union Act of 1926 but their association has been formed and that has been recognised.

The hon. Minister while replying just now said that he would ask somebody to draft a model constitution. What is the nature of this union formed by the policemen? It is a union formed by the policemen, of the policemen, for the policemen. There is no outsider in it. I would have actually liked to lay a copy of their constitution on the Table of the House with your permission, but since that may create some misunderstanding, I

would like to hand over one copy for the hon. Minister's perusal for whom I have great regard.

When they met Shri Hathi and Shri Hathi in his wisdom advised them that they could not have the same right as the other trade unions in the larger interests of the country, in the interest of the security of the country, to fight internal disturbances and external aggression, they readily agreed and said, "We shall forego the right to strike voluntarily". It was not banned as such. They were assured—I could have produced a photostat copy issued by the IG Police's office which clearly said—that their association or union would be recognised. I never wanted to create any disruption or seduction among the policemen and that is why I did not do it. So, they got an impression that their union would be recognised

So, let the hon. Minister agree to this amendment. If he cannot possibly agree to it because it comes from Shri Nambiar, then let him move one himself.

He said, "Except an association of their own to improve their own lot". What is "own association"? "Own association" means where only policemen can become members and office-bearers, where they can take decisions and the aims and objects of that association or union are only to create better relations among policemen, to discuss their problems, have a negotiated settlement with the IG Police or the DIG Police and so on, to create a better understanding between the people and the police. Today, after the formation of this union, I can tell you with all honesty, there is a better understanding between the people and the police. The police may think that the people are against them, but not always. They are our servants. Our members can become policemen tomorrow. After all, Shri Mahavir Tyagi was a head constable and he is a Member of Parliament today.

Shri K. C. Sharma: He was not a Head Constable.

Shri S. M. Banerjee: He posed to be a Head Constable. That may be impersonation. That is worse. Shri Ramanand Tiwari is today one of the most respected persons in Bihar. Was he not a policeman? In this country, when Balmiki dacoit can become a saint, a policeman also who has been brought up in this atmosphere of brutality to sheet people can become a saint.

Mr. Chairman: The hon. Member should confine himself to the amendments that are before the House.

Shri S. M. Banerjee: I only say this that when, after 1960 strike was banned, an ordinance was issued, I know my hon. friend Shri Nath Pai spoke on their behalf and made a wonderful case and he said that in Great Britain, in 1962, when there was a general strike and the entire country was paralysed, even then such an ordinance was not issued.

I say that they are also Government employees. If you see their conditions, they excite horror than pity. You want policeman not to become corrupt. Unless he takes money, he cannot possibly wash his uniform daily, iron it and so on. They should be allowed to form an association. If the hon. Minister or his deputy is allergic to the word 'union'—I know the hon. Minister is not; his deputies are—I think, he should accept the word 'association'. They should be given a right to form an association. If this right is not given, there will naturally be serious repercussions in the country which will be neither in the interest of the country, in the interest of the ruling Party, nor in our interest.

Shri K. K. Verma (Sultanpur): Mr. Chairman, Sir, I have heard the arguments that have been advanced with regard to two amendments before the House.

[Shri K. K. Verma]

The first amendment says that after "associations" insert "except an association of their own to improve their own lot". Clause 3 says:

"No member of a police-force shall, without the express sanction of the Central Government or of the prescribed authority,—

- (a) be a member of, or be associated in any way with, any trade union, labour union, political association or with any class of trade unions, labour unions or political associations;"

Now, if we add after this "except an association of their own to improve their own lot", I think, my hon. friend is going to limit the wide scope that already exists in this clause. This clause only bans certain associations and trade unions and there is also a provision that there should be the express sanction of the Central Government.

My submission is that this amendment is quite redundant and that we should not limit the scope of the provision that is already here in this clause. There may be other associations which may be permitted by the Central Government.

The second amendment is that the words "or for such other purposes as may be prescribed" may be deleted. Sub-clause (2) says:

"No member of a police-force shall participate in, or address, any meeting or take part in any demonstration organised by any body of persons for any political purposes or for such other purposes as may be prescribed."

My hon. friend has ignored the word 'demonstration' in this sub-clause (2). It says:

"No member of a police force shall participate in, or address, any meeting or take part in any demonstration...."

There are many demonstrations which create disturbance and which create disorder. Does my friend want that they should be allowed to participate in such demonstrations also?

Shri Nambiar: No, no. We agree upto the words ".....for any political purposes" and then put a full stop. That is all. The hon. Member has not followed my amendment.

Shri K. K. Verma: This phrase "for such other purposes as may be prescribed" has very wisely been put here on administrative grounds and on the ground that the administration may not be jeopardised. Our democracy and the whole administration may fall down if we allow the police force to participate in demonstrations which may create disorder and disturbance.

Shri D. C. Sharma: I want to say one thing only. I think, the gentleman has objected to the word 'society' or 'institution' or 'association' or 'organisation'. Now, Sir, you know that sometimes these words are used as a camouflage for certain things. For instance, I may have a study circle and you say, why prevent these men from joining the study circle. But that study circle may have something which is not the legal purpose for it. In the same way, take, for instance, a demonstration. There is a political demonstration and there are other kinds of demonstrations also. For example, I know, there was a demonstration against a Vice-Chancellor. He did not agree to some demands of the people and what happened was that they had a demonstration against him saying, "Vice-Chancellor hai hai." I, therefore, say, it is good for the mental health, for the physical health, of the police force that they should be debarred from having these things and that they should not take part in any demonstration, either of political nature or of any kind, and they should also not be allowed to join those societies which work for some end but which have names which are very innocent looking and harmless.

With these words, I say that this clause should stand as it is.

Shri Y. B. Chavan: Sir, I have nothing to add to what my two colleagues have explained. I am afraid, I might again repeat what I have said before. Either the hon. Members have not understood the purpose for which this Bill is meant or they want to defeat the purpose of the Bill. The latter seems to be the case.

Shri S. M. Banerjee: If we have not understood it, the policemen will never understand it.

Shri Y. B. Chavan: The policemen will understand it. Really speaking, they are trying to defeat the purpose of the Bill because what is allowed in this Bill is very clear that if there is an association of the police-force and if it is recognised as such and if it is meant for the purposes of a purely social, recreational or religious nature, certainly, the association will be allowed to function. Shri Banerjee tried to make it look rather absurd, mentioning R.S.S., Sadhu Samaj and other things. There are certain obvious things. If you want to ignore the obvious things, what is the idea of making it look like an absurd thing which is very clear. What we want them to do is very clear and what we do not want them to do is very clear. We do not want them to join any political association or any demonstration or any trade union movement or anything which is not police-force affair.

Shri Nambiar: We all agree.

Shri Y. B. Chavan: If we all agree, then, really speaking, you should withdraw your amendments.

Shri Nambiar: We agree on one point that they should be allowed to have an association. That is why I have moved this amendment.

Shri Y. B. Chavan: The whole thing is very clear. Certainly, this Act is

supposed to regulate their rights. What is allowed has been made very clear. They can certainly have associations—it has been made clear in the Explanation—if they are purely of a social, recreational or religious nature. The word 'cultural' is not used; it is the word 'recreational'.

Shri Hari Vishnu Kamath: Could it not be done on the lines of Whitley Councils?

Shri Y. B. Chavan: The hon. Member has certainly made the suggestion. I cannot give my reaction straightaway. Naturally when it has come from an eminent member like Mr. Kamath, it will have to be examined. I cannot, without any examination, give my reaction one way or the other.

Shri S. M. Banerjee: The father of Whitleism is there.

Shri Y. B. Chavan: That is all. I think I have explained my reasons.

Mr. Chairman: He does not accept any of the amendments?

Shri Y. B. Chavan: No, I am not accepting.

Mr. Chairman: I now put Mr. Nambiar's amendments, Nos. 7, 8 and 9 to the vote of the House.

Amendments Nos. 7, 8 and 9 were put and negatived.

Mr. Chairman: The question is:

"That Clause 3 stand part of the Bill."

The motion was adopted.

Clause 3 was added to the Bill.

Clause 4—(Penalty)

Shri Nambiar: I am opposing it. I will read out that Clause. That will make it very clear.

[Shri Nambiar]

Mr. Chairman: Has he moved any amendment?

Shri Nambiar: No, Sir. I am opposing the whole Clause. I want that the whole Clause should be deleted. I have not moved any amendment. I want that the whole Clause should be scrapped. Clause 4 reads as follows:

"any person who contravenes the provisions of section 3 shall, without prejudice to any other action that may be taken against him, be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to two thousand rupees, or with both."

This is the penal clause. It is a simple thing and anybody can understand this. I think Mr. Shinkre, who supported the Bill as a whole, will at least oppose this clause and agree with me. Here the position is this. Any person belonging to the Police Force who becomes a member of an association which is not recognised by the Government will have to undergo imprisonment which may go upto two years or a fine to the extent of Rs. 2000 or both. All that bureaucratic thing is there—'or both' and all that; and they only fill in the figure, whether it is two or five or whatever it is. What I submit is this. This is, as Mr. Shinkre has pointed out, *ultra vires* outright to the Constitution. How can a citizen of India be penalised for becoming a member of an association which is not approved by the Government or recognised by the Government to the extent of giving an imprisonment upto two years? What offence has he committed? He is a member of the Police Force and he is not allowed to become a member of an association which is not recognised by the Government and the penalty for this is imprisonment upto two years. This is something very strange, something outrageous. The House cannot, with any sense of responsibility or any sense of propriety, pass such a law. What I suggest is that even granting that they want

completely to terrorise the Police Force by saying that if they join an association which is not recognised by the Government, they would be finished and all that, they could say like this: if any person contravenes the provisions of section 3, disciplinary action shall be taken against him. You can remove him from service. That is the maximum punishment that you can give. You can dismiss him, you can fine him, but you should not give the punishment of imprisonment for two years. After all, this is not a secret police code that you are drafting. It is not an Army which has to defend the country. It is after all Police Force and the Police Force cannot be penalised to the extent of imprisonment for two years for becoming a member of an association which is not recognised by the Government. Therefore, this looks ridiculous and if it goes before the Supreme Court, I think the Supreme Court will only laugh at this provision....

Shri Alvares (Panjim): Only laugh at it?

Shri Nambiar: That means, it will be thrown out in the ditch and it will also cast asperation on me and the other members who are present today by saying, "you passed this law".

Shri Alvares: The Supreme Court cannot do it.

Shri Nambiar: They can indirectly make an observation that there were hon. members who were present there. Therefore, Sir, please remove this two-year-imprisonment business.

The Minister of State in the Ministry of Defence (Shri Hathi): And put what?

Shri Nambiar: You dismiss him from service, you forfeit his provident fund or gratuity. But do not bring in this 2 year-imprisonment. It is a very bad law. This will provoke anger and opposition in the entire Police Force of this country—this clause alone. This is not fair. Do not

provoke them to that position, do not make all the Police Force inimical to the Government. They are not so. All right, you have adopted the first three clauses, but kindly remove Clause 4; withdraw Clause 4; delete it and nothing will happen, heavens will not fall down. Do not make it a ridiculous legislation.

Shri S. M. Banerjee: I rise to oppose this Clause and I fully support Mr. Nambiar. We thought that there would be some difference between Gen. Ayub and Shrimati Indira Gandhi. Now we know what this country has been reduced to. It has been reduced from Subhas Chandra Bose to Atulya Ghosh, and from Mahatma Gandhi to Indira Gandhi. Our country has been reduced to this leadership. I am sorry to use this expression. I feel that even this....

Shri Raghunath Singh (Varanasi): Also from Surendranath Banerjee to S. M. Banerjee.

Shri S. M. Banerjee: Yes; that is correct. Does he agree that it has been reduced from Mahatma Gandhi to Indira Gandhi and from Subhas Chandra Bose to Atulya Ghosh?

May I remind the hon. Minister of this. He was the Defence Minister at that time and Mr. Nanda, who was the victim of Sadhu Samaj was the Home Minister at that time. Certain members were debarred from joining a particular association or a particular union under 4B of the Government Servant's Conduct Rules. 4A and 4B were known to be some of the most pernicious clauses in the Government Servants' Conduct Rules. What was the provision in that particular clause? Under 4B, if Government declined or refused to grant recognition to a particular union or association, then no employee should become a member of that particular association. All the employees of the office of the Comptroller and Auditor General became members of a particular association, recognition for which was withdrawn

by the C.A.G. Naturally some people were served with notices of compulsory retirement and ultimately this was challenged in the Supreme Court; 4B was challenged in the Supreme Court. I am glad to tell through you, the hon. Minister that the Supreme Court held that Government had no business to debar a particular employee of any organisation of Government from becoming a member of a union of his own choice. Even today recognition rules have not been framed only because of the judgment of the Supreme Court.

So, I do not know how this kind of thing could happen today when we are passing this legislation. After all we are supposed to be the makers of law and the custodians of the rights of the people. We do not want that the policemen, of all persons in the country, should become law-breakers. But they are bound to break the law if this clause remains on the statute-book after this Bill becomes an Act, under which any policeman who wants to form an association could be sentenced to two years' imprisonment or a fine of Rs. 2000 or both.

May I request the hon. Minister to kindly realise the legal aspect of it also? I know that the Law Ministry might have given him the green signal. But we have a very bad tradition of the Law Minister in this country. Shri A. K. Sen, when he was the Law Minister, gave advice on the Berubari issue which was proved to be wrong; then, he gave advice on the Nanavati case which was also proved to be wrong; then, he advised on the compulsory deposit scheme which was also ultimately proved to be wrong. I am sure that Shri G. S. Pathak also will advise him wrongly, because according to our convention the Law Minister is not supposed to know law.

Therefore, I feel that this clause should be withdrawn and some other clause should be brought forward in its place. This clause can wait till tomorrow or the day after and mean-

[Shri S. M. Banerjee]

while this clause can be reconsidered. But under no circumstances should this clause be allowed to remain on the statute-book of this country.

Shri Shinkre: While replying to me, the hon. Home Minister had said that clause 4 of this Bill was a copy of a similar provision from the Navy Act. But I would like to submit that the naval forces are part of the Armed Forces of the country. But a police force is not part of the Armed Forces. The police force is a civilian corps and as a civilian corps it is subject to civil jurisdiction only. It is a well known principle that military offences of a disciplinary nature may be punished with imprisonment. For instance, one knows that desertion during the war-time is punishable even with capital punishment. But that is no argument for imposing this kind of punishment on the police force. Therefore, I still continue to insist on my original argument that this punishment with imprisonment should be completely removed from this clause. For, if the men were not belonging to the police force, they could enter into and form any trade union, and they would not have committed any breach of the law of the country. It is only for the common law crimes or criminal offences that imprisonment has been stipulated as punishment under our penal laws. That is the original structure of our entire penal laws.

I would, therefore, plead once again with the Home Minister to examine the question. He can himself bring forward an amendment to this Bill by deleting the imprisonment part of the clause and maintaining only the fine part of the punishment.

Shri D. C. Sharma: I think there is some confusion in the minds of the hon. Members who have spoken on this clause. The confusion is between the maximum and the minimum. It is the maximum punishment which has been laid down here.

Shri Shinkre: There is no question of maximum or minimum. But it is a question of principle.

Shri D. C. Sharma: The maximum punishment that a person would get is for two years. It is not incumbent on the court to award him a sentence of two years' imprisonment or a fine of Rs. 2000. It is not there that he would get both the punishments. It has not been made obligatory in this clause that the person should get both these punishments together or only one punishment and not the other. It is not made obligatory at all, but it has been left entirely to the discretion of the court.

My hon. friends have been speaking in terms of law. But I would submit that I do not think that we administer law. I do not think that Shri S. M. Banerjee administers law; I do not think that Shri Nambiar administers law, nor do I administer law. Law is to be administered by the court. We have faith in our courts, and we know that our courts do not look at these things only from the disciplinary point of view but they look at it from the human point of view also.

Therefore, I believe that my hon. friends who have preceded me have tried to make a mountain of a mole-hill. What is prescribed here is the ceiling. The floor may be anything. My hon. friends have mistaken the ceiling for the floor and the floor for the ceiling and they have thought that the ceiling will always prevail and that the floor will have no value. If we have faith in the courts, we should leave it to the discretion of the courts and they will see how to temper justice with mercy and how to administer justice in a human manner and how to give punishments which are appropriate to the person in terms of his social conditions, in terms of the number of years that he has lived for, and in terms of his family conditions and so on.

I think our courts are wonderful from that point of view and I do not think we should cast any doubt on the integrity and efficiency of the courts which are going to administer this clause.

Shri Hari Vishnu Kamath: Mr. Chairman, while on the face of it, cl. 4 may appear innocuous, certain misgivings arise in my mind when I read it with cl. 3 and I would request the Minister to clear them in the course of his reply to the discussion.

If I may, I would like to draw your attention to the *Explanation* to clause 3. It invests the Central Government with the authority to decide as to whether an association which a policeman joins is or is not according to law, according to the rules and all that kind of thing. In view of this what I said earlier when I spoke during the general consideration stage acquires more significance. I would like to remind the Minister again of the position in the UK, which has got perhaps the finest police force today in the world. There, the latest position is this; in September 1953, the Police Federation was replaced by a new Police Council for Great Britain, a negotiating body on Whitely Council lines. It consists of an official on the staff side and an independent Chairman with the right to negotiate agreements on wages and conditions, and when necessary, to go to arbitration, though the Home Secretary and the Secretary of State for Scotland have the power to reject or refer back such agreements.

Here it is said in the *Explanation*:

"If any question arises as to whether any society, institution, association or organisation is of a purely social, recreational or religious nature under clause (b) of this sub-section, the decision of the Central Government thereon shall be final".

Now the Judge, Jury, and the accuser will be the same in this case, because they will take departmental action also followed by the action under the law for infringement of this particular statute.

Now, is it too much to ask the Government to ensure that in such

cases where there is a doubt as to whether the particular organisation is or is not according to the law, to leave it to an independent authority?

They may give thought to it, as to whether an independent authority must be constituted. I personally think it should be constituted as in England. . . .

An hon. Member: Administrative Reforms Commission.

Shri Hari Vishnu Kamath: It is not a permanent Commission; otherwise, it would have served the purpose. It will conclude its work next year by the latest.

Unless it is cleared as to whether the Central Government are the final arbiter on this question or whether an independent authority will be constituted to go into this matter as to whether a policeman has in joining a particular organisation infringed the law or not, unless this question is cleared, it will be difficult to support this clause 4 as it stands.

I would request the hon. Minister that he do give earnest thought to the position as it obtains in Great Britain, to which I referred. As he has assured the House earlier, I do hope that some such Council on Whitely Council lines will be set up in our country at a very early date, sooner rather than later.

Shri N. Dandekar (Gonda): I am troubled by this clause partly for the reasons which Mr. Kamath gave, but partly for a more fundamental reason.

I can understand the necessity for abridging some of the fundamental rights of citizens enrolled in the police force for obvious public reasons, reasons of public necessity and so on, and, in fact, as the Statement of Objects and Reasons says, article 33 of the Constitution permits this.

[Shri N. Dandekar]

I will take a little time to develop my argument, first by reading article 33:

"Parliament may by law determine to what extent any of the rights conferred by this Part shall, in their application to the members of the Armed Forces or the Forces charged with the maintenance of public order, be restricted or abrogated so as to ensure the proper discharge of their duties and the maintenance of discipline among them."

What this article permits is the restriction or abrogation of a part of the fundamental rights in relation to the police forces. So far so good. The problem I find a little more difficult is whether abridgement or curtailment of fundamental rights extends to making their contravention an offence.

If, for instance, my fundamental right is abridged to extent "X", then, can it become an offence if I try to exercise my fundamental right to the extent of "X" which is abridged or annulled by legislation of this kind? I frankly wonder whether the power to abridge or abrogate fundamental rights confers the power to equate the abridgment to an offence, or rather, whether the infringement of the abridgement, if I may say so, can be converted into a criminal offence punishable with imprisonment or fine or both.

At this point I would like to link up with Mr. Kamath's argument, because there is here no offence defined. What is defined is what a member of the police force shall not do without the express sanction of the Central Government.

Mr. Chairman: Cannot the rules cover that later?

Shri N. Dandekar: No, Sir. Rules cannot define an offence, rules are for procedural and other things of that kind.

It says that no member of a police-force shall, without the express sanction of the Central Government or of the prescribed authority be a member of certain organisations. To that extent abridgement of rights is all right, I accept that as a necessity. But then whether that abridgement when contravened by a member of the police force amounts to an offence will be for the Central Government to decide. The Explanation says:

"If any question arises as to whether any society, institution, association, organisation is of a purely social, recreational or religious nature under clause (b) of this sub-section, the decision of the Central Government shall be final."

I find that very difficult. There is an abridgement, in exercise of the power to abridge fundamental rights. Certainly the infringement of the abridgement, I agree, should be dealt with somehow. I would think it should be defined as amounting to "gross indiscipline" for purposes of the disciplinary control etc., making the person liable to dismissal from service. But then it goes on to make it a criminal offence, to say that the Central Government shall decide whether an offence has been committed or not, and when the Central Government has decided that an offence has been committed, then a court of law, a poor, wretched magistrate has got to sit down and go into the circumstances and award him some fine or some imprisonment or both.

I am gravely troubled about this. I do not think that the power for abridgement of a right can be converted into a power to deliver an offence for the infringement of that abridgement. That is all I have to say.

श्री बड़े (खारगोन) : सभापति महोदय, यद्यपि हमारी पार्टी की तरफ से एतनीय सदस्य, श्री कछवाय, ने कहा है कि पुलिस में

कोई ट्रेड यूनियन नहीं होनी चाहिए, लेकिन इस का अर्थ यह नहीं है कि उन लोगों को कोई एसोसियेशन बनाने का अधिकार भी नहीं होना चाहिए। क्लॉज 3 और 4 में जो व्यवस्था की गई है, उस के अनुसार जो व्यक्ति इस कानून का उल्लंघन करेगा, उस को डबल पनिसमेंट मिलेगा—उस की नौकरी भी जायेगी और उसको कैद या जूमनि की सजा भी होगी। यह डल पनिसमेंट नहीं होना चाहिए। क्षयरोग—टी० बी०—के बारे में कहा जाता है कि “क्षयरोग प्राणान च हरति बित्तं च हरति”, अर्थात् क्षय रोग से प्राण भी जाते हैं और धन की भी हानि होती है। इसी प्रकार इस कानून का उल्लंघन करने पर किसी व्यक्ति की सविस भी जायेगी और उस को सजा भी मिलेगी।

क्लॉज 4 में कहा गया है कि जो व्यक्ति संवशन 3 की प्राविजन्ज का उल्लंघन करेगा, उस के खिलाफ़ और जो कोई भी एक्शन लिया जायेगा उस, के अतिरिक्त उस को दो वर्ष तक की कैद और दो हजार रुपये तक जुर्माना हो सकता है। इस के साथ ही क्लॉज 3 के एक्सप्लेनेशन में कहा गया है कि यदि यह प्रश्न उठता है कि क्या कोई सोसायटी, इंस्टीट्यूशन, एसोसियेशन या आर्गनाइजेशन प्यूरली सोशल, रीक्लीशनल या रिलिजस नेचर की है या नहीं, तो उस बारे में सेंट्रल गवर्नमेंट का डिस्जिन फाइनल होगा। मैं यह जानना चाहता हूँ कि किसी संस्था की नेचर के बारे में फैसला करने का अधिकार गवर्नमेंट के बजाये कोर्ट को क्यों नहीं दिया जाता है।

क्या होम मिनिस्टर साहब को यह मालूम नहीं पड़ता है कि अगर यह अधिकार गवर्नमेंट के पास रहता है, तो गवर्नमेंट की पावर्ड डेलीगेट हो कर आई० जी० पुलिस, के पास जायेगी; आई० जी० पुलिस, अगर यह फ़ैसला करता है कि कोई संस्था प्यूरली सोशल, रीक्लीशनल या रिलिजस नहीं है,

तो वह फैसला फ़ाइनल होगा। इस प्राविजन्ज के हांते हुए कोर्ट के हाथ बंधे हुए हैं। कोर्ट के दरवाजे खुले हुए होने चाहिए। क्लॉज 3 के इन्टरप्रेटेशन का अधिकार कोर्ट को होना चाहिए। किसी डेमोक्रेटिक, प्रजातन्त्रीय, राज्य में कोर्ट के दरवाजे किसी के लिए बन्द रखना ठीक नहीं है।

होम मिनिस्टर साहब ने अभी बहुत ही सहानुभूतिपूर्ण भाषण में कहा है कि पुलिस के विषय में उनका रवैया ह्यूमन काइडनेस का है और कम्युनिस्ट आदि कुछ तत्वों से पुलिस के डिस्जिन के भंग होने का खतरा है। मैं उन से अपील करना चाहता हूँ कि क्या उन का मारल और लीगल सेंस यह एलाऊ करता है कि इस कानून का उल्लंघन करने पर किसी व्यक्ति को डबल पनिसमेंट दी जाये और उल्लंघन के सम्बन्ध में इन्टरप्रेटेशन का अधिकार भी गवर्नमेंट के पास ही रहना चाहिए। इस लिए मैं चाहता हूँ कि क्लॉज 3 की एक्सप्लेनेशन को निकाल दिया जाये और इस सम्बन्ध में कोर्ट्स के दरवाजे खुले रहने चाहिए।

Shri Y. B. Chavan: I tried to follow the subtle argument raised by both the hon. Members Shri Kamath and Shri Dandekar. Their point is, if I have understood them aright, whether abridgement of rights creates an offence. Abridgement of rights does create certain obligations on the part of the members of the police force. If the failure to observe that obligation is not accompanied by some penalty, we are not doing it for fun.

Shri Shinkre: Let dismissal be there.

Shri Y. B. Chavan: Other departmental or disciplinary action is not ruled out; they are there. Mr. Kamath expressed some doubts about the explanation. I personally feel that this explanation is meant at the time of recognition of an association.

Shri Hari Vishnu Kamath: It is not clear.

Shri Y. B. Chavan: I am trying to explain the intentions because the intentions of the Government are material when the Bill is discussed. The other departmental action is there; it is not ruled out. According to me, there is no room for these doubts.

Hon. Members Shri Nambiar and Shri Banerjee do not want this clause at all; my assessment of their opposition is that they want to defeat this Bill. Once we accept that there should be an obligation on them to observe the things included in clause 3, failure must be accompanied with some punishment. I can understand if they had given certain amendments saying that this should be the punishment.

Shri Nambiar: I tried and I applied fifteen minutes of my time to that.

Shri Y. B. Chavan: If they had any other alternative, I could have given thought to it. Personally, I do not think there is another alternative. Naturally as Shri Sharma says we must believe in the wisdom of the judiciary. If it is an individual technical lapse, Government will not go to the court and get a man punished. But suppose there is an organised effort to disobey and there is collective disobedience. Then naturally the seriousness of the breach is increased. Therefore, possibly this will have to be accompanied by a little severe punishment. We have to believe and rely upon the wisdom of the judiciary when they look into this matter. This is my explanation.

Mr. Chairman: The question is:

"That clause 4 stand part of the Bill."

The Lok Sabha divided.

Division No. 21]

AYES

[16.53 hrs.

Akkamma Devi, Shrimati
Alva, Shri A. S.
Alva, Shri Jaochim
Barua, Shri R.
Basappa, Shri
Basumatari, Shri
Bhanja Deo, Shri L. N.
Bhattacharyya, Shri C. K.
Brij Raj Singh-Kotah, Shri
Chanda, Shrimati Jyotana
Chandrabhan Singh, Dr.
Chavan, Shri Y. B.
Chavda, Shrimati Johraben
Das, Shri B. K.
Das, Shri C.
Deo Bhanj, Shri P. C.
Deshmukh, Shri Shivaji Rao S.
Dixit, Shri G. N.
Dubey, Shri R. G.
Dwivedi, Shri M. L.
Gandhi, Shri V. B.
Hanumanthaiya, Shri
Harvari, Shri Ansar
Hazarika, Shri J. N.
Meda, Shri
Jadhav, Shri Tulahidas

Jedhe, Shri
Jena, Shri
Jha, Shri Yogendra
Jyotishi, Shri J. P.
Khadilkar, Shri
Kisan Veer, Shri
Kotaki, Shri Liladhar
Koujalgi, Shri H. V.
Krishna, Shri M. R.
Laskar, Shri N. R.
Mahida, Shri Narendra Singh
Mahishi, Dr. Sarojini
Malaichami, Shri M.
Malaviya, Shri K. D.
Maniyangdan, Shri
Mantri, Shri D. D.
Mathur, Shri Harish Chandra
Mehrotra, Shri Braj Bihari
Minimata, Shrimati
Misra, Shri Bibhuti
Mohanty, Shri Gokulananda
Morarka, Shri
Mukerjee, Shrimati*Sharda
Nasikar, Shri P. S.
Niranjan Lal, Shri
Pande, Shri K. N.
Patil, Shri T. A.

Pattabhi Raman, Shri C. R.
Raghunath Singh, Shri
Ram Sewak, Shri
Ram Subhag Singh, Dr.
Ram Swarup, Shri
Rane, Shri
Rao, Shri Jaganatha
Rao, Shri Ramapathi
Ray, Shrimati Renuka
Reddi, Dr. B. Gopala
Reddy, Shri H. C. Linga
Sharma, Shri A. P.
Sharma, Shri D. C.
Shastri, Shri Ramanand
Shinde, Shri
Shree Narayan Das, Shri
Shukla, Shri Vidya Charan
Shyamkumari Devi, Shrimati
Siddananappa, Shri
Singh, Shri D. N.
Singh, Shri K. K.
Suman Prasad, Shri
Tiwary, Shri R. S.
Upadhyaya, Shri Shiva Dutt
Venkatesubbaiah, Shri P.
Verma, Shri K. K.

NOES

Alvares, Shri	Kakkar, Shri Gauri Shankar	Ranga, Shri
Bade, Shri	Kamath, Shri Hari Vishnu	Samants, Shri S. C.
Banerjee, Shri S. M.	Lahri Singh, Shri	Shinkre, Shri
Chakravartty, Shrimati Renu	Nair, Shri Vasudevan	Singh, Shri Y. D.
Chatterjee, Shri N. C.	Nambiar, Shri	Swamy, Shri Sivamuthi
Dandekar, Shri N.	Nath Pai, Shri	Vishram Prasad, Shri
Kachhavaia, Shri Hukam Chand	Raghavan, Shri	

Mr. Chairman: The result of the division is:

Ayes 79; Noes 20.

The motion was adopted.

Clause 4 was added to the Bill.

Clause 5 was added to the Bill.

Clause 6—(Power to make rules.)

Shri Hari Vishnu Kamath: Sir, I am inclined to think that this clause will merely adorn the pages of this statute without any concrete or tangible fruit so far as this Parliament is concerned. You will be pleased to see and so will the House, that sub-clause (2) reads thus:

"Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days, which may be comprised in one session or in two successive sessions..." etc.

We are at the fag end of this session and of the Lok Sabha itself. The next session—the lame duck session—may be for 10 days or even less. But the rules have to be laid before the House for a period of 30 days. That means, this Parliament will not deal with these rules at all.

Shri D. C. Sharma: Why not?

Shri Hari Vishnu Kamath: Sir, he has been a prolific parent of private Bills but he has not given much thought to this Bill.

Mr. Chairman: You are making him wiser.

Shri Hari Vishnu Kamath: If there is scope for making him wiser. I do wish he gives some thought to such provisions like this. Unfortunately private Bills do not contain such provisions: they appear only in

official Bills. If he can bestow some thought to this for 5 minutes, he will arrive at the happy conclusion that unless he is returned to this Parliament after the next elections, which I hope he will be, he would not be able to deal with the rules framed under this Act. I think during the next four months or even within a fortnight they may promulgate some rules which this Parliament will have no opportunity of scrutinising or modifying or amending or disapproving. Under this clause, Parliament is given the power to amend, modify or disapprove of these rules. Suppose some rules are made which are not to the satisfaction of Parliament, we will not have an opportunity to go into them. I would ask the Home Minister to give us an assurance that any rules made under this Act will not be enforced till the fourth Lok Sabha has had an opportunity of scrutinising them and modifying them in the manner it deems fit and proper.

Shri Y. B. Chavan: I cannot give that assurance. If the hon. Members want to move any amendments to modify the rules, they can do so in the next session.

Shri Hari Vishnu Kamath: Unless 30 days expire, you cannot do it. He has not read his own Bill properly, Sir.

Mr. Chairman: He is not prepared to give any assurance.

The question is:

"That clause 6 stand part of the Bill."

The motion was adopted.

Clause 6 was added to the Bill.

17.00 hrs.

Mr. Chairman: The question is:

"That the Schedule stand part of the Bill."

The motion was adopted.

The Schedule was added to the Bill.

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

Shri Y. B. Chavan: Sir, I beg to move:

"That the Bill be passed."

Mr. Chairman: The question:

"That the Bill be passed."

The motion was adopted.

17.01 hrs.

GOA, DAMAN AND DIU (OPINION POLL) BILL

The Deputy Minister in the Ministry of Home Affairs (Shri Vidya Charan Shukla): Sir, on behalf of Shri Y. B. Chavan, I beg to move*:

"That the Bill to provide for the taking of an opinion poll to ascertain the wishes of the electors of Goa, Daman and Diu with regard to the future status thereof and for matters connected therewith, be taken into consideration."

Shri Hari Vishnu Kamath (Hoshangabad): Sir, I rise on a point of order. I am loath, reluctant, to obstruct or delay the passage of this important Bill because it has sought to meet the wishes and needs of a large body of Indian citizens in one of the Union Territories—Goa—but I am anxious that whatever is transacted in this House must be in accordance with the Constitution and the Rules of Procedure.

Now, Rule 76 of the Rules of Procedure says:

"No motion that a Bill be taken into consideration or be passed

shall be made by any member other than the member in charge of the Bill . . ."

Today's List of Business says that it is Shri Y. B. Chavan who is the Minister in charge of the Bill.

Shri Vidya Charan Shukla: It has been decided . . .

Shri Hari Vishnu Kamath: It has not been decided. The rule further says:

" . . . and no motion that a Bill be referred to a Select Committee of the House, or a Joint Committee of the Houses or be circulated for the purpose of eliciting opinion thereon shall be made by any member other than the member in charge except by way of an amendment to a motion made by the member in charge:

The proviso says:

"Provided that if the member in charge of a Bill is unable, for reasons which the Speaker considers adequate, to move the next motion in regard to his Bill at any subsequent stage after introduction, he may authorise another member to move that particular motion with the approval of the Speaker."

Then the Explanation is:

"Notwithstanding the provisions contained in the proviso the member who introduced the Bill shall continue to be the member in charge."

Now, under "Definitions", "Minister" is defined. (*Interruptions*).

17.05 hrs.

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

So, under rule 76 the Minister has to give adequate reasons if he does

*Moved with the recommendation of the President.