

[Mr. Speaker]

of Private Resolutions are to be disposed of some reasonable time has to be fixed up within which discussion on a Resolution may be finished. To carry on a Resolution from day to day means practically blocking all other Resolutions.

Shri S. S. More (Sholapur): Which is the final authority to decide?

Mr. Speaker: The House itself, practically. They can move for closure.

Shri S. S. More: We will decide when the discussion shall be over.

Mr. Speaker: Yes. But the complaint is. (*Interruption*).

Order, order. The hon. Member is in the habit of interfering while the Chair is on his legs. Let him hear first.

I am merely inviting the attention of all the hon. Members—the entire House—to a grievance of some Members which, I believe, is *prima facie* legitimate. The House is sovereign indeed. The majority may decide anything it likes. But the question is whether the majority should have some regard or not, and whether there could be any compromise on such questions. Of course, we have a Committee on Private Members' Bills.

The matter comes to me by way of representation that private Members' resolutions may also be included in the jurisdiction of that Committee. But that is a different matter. What I wanted to invite the attention of the hon. Members to is that they should see that the discussion has some limitations so as to leave time for other resolutions to come in, some time during the current session at least. That is the only thing which I wish to invite the attention of the hon. Members to. There are so many ways in which this can be done, if the Members are anxious to cooperate with each other for the purpose of bringing more matters for discussion in the House, instead of taking up all the time by one

matter. I quite appreciate that all matters are not of equal importance. Some matters may require very long discussion. Granting all that, it has to be conceded, to my mind, in fairness to the Members of all sections of the House that, there must be some limit to the discussions so as to give a chance to others to bring forward their resolutions before the House.

The Minister of Commerce and Industry (Shri T. T. Krishnamachari): May I make a submission, Sir? So far as Government is concerned, they do not want to precipitate a closure for the reason that they might be misunderstood that on a very important subject like this Government does not want full discussion of the matter. I am informed, Sir, that my colleague, the Minister of Planning would intervene in the debate today and after that Government is entirely in the hands of the House and the Chair whether the discussion should continue or be closed.

Sardar A. S. Saigal (Bilaspur): May I make a submission, Sir?

Mr. Speaker: No submissions.

I may inform the hon. Minister that many of the hon. Members who have come to me and complained are members of the majority party.

TELEGRAPH WIRES (UNLAWFUL POSSESSION) AMENDMENT BILL

Mr. Speaker: The House will now proceed with the further consideration of the motion "That the Bill to amend the Telegraph Wires (Unlawful Possession) Act, 1950, be taken into consideration." Mr. N. B. Chowdhury was speaking.

Shri N. B. Chowdhury (Ghatal): Sir, when I was speaking on this Bill, I raised the fundamental question about jurisprudence, and my intention was that no innocent people are punished as a result of this measure. Previously, under the Principal Act there was a provision that the Government

would have to prove that the particular piece of telegraph wire which might be found in the possession of some person belongs to the Posts and Telegraph Department. But, now, clause 4 of the amending Bill says:

"which the court has reason to believe to be, or to have been, the property of the Posts and Telegraphs Department of the Central Government",

would be omitted.

Sir, if this is omitted, the responsibility of bringing in evidence as to the telegraph wire being the property of the Posts and Telegraphs Department is altogether dispensed with. So, it is likely that innocent people who may not know whether a particular piece of copper wire is a telegraph wire within the scope of the definition of the Act.

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

Sir, as we all know, the telegraph wire is not manufactured in large quantities in this country; it is mostly imported from U.K. and U.S.A. So, when this thing is imported, we have to be sure that this is imported by the Government totally or any other importer who might be importing this commodity into the country delivers the goods to the Government and does not deal in it privately.

Sir, in this connection, I may point out that so far as I have come to know, there is a private company at Jamshedpur which manufactures a little quantity of this telegraph wire. If it is so, then some quantity of telegraph wire may come into the possession of some innocent persons. It may be that they may not at all know that that comes within the scope of the definition in this Act. Or it may be any other particular piece of wire which is not covered by this definition. So, what will happen in that case? It may be that a copper wire is not a telegraph wire according to this definition. But, as the prosecution has no responsibility to let in evidence that the particular copper wire is the property

of the Government, innocent persons might suffer.

It has been reported that the police in different parts of the country do not sufficiently co-operate with the staff or the people who want to detect the offenders. We have come to know that at a place called Villivakkam in Madras, or near about that place a gang is reported to be operating and when even linemen and Engineering supervisors want to detect such offenders, the police do not co-operate with them. So, if this measure is adopted, Government have to be particularly careful that innocent persons are not harassed.

Then, expert opinion says that instead of copper wire, aluminium wire can be used at least in the case of trunk lines. So, the Government may ask the National Physical Laboratory to examine the question and in that case Government will have the advantage of manufacturing it in this country. Moreover, when the matter is a very important one and when this commodity is not being manufactured in this country and it is necessary to maintain the essential services here, the Government would do well to consider the proposal of setting up a factory to manufacture this particular kind of telegraph wire in this country. So far as we know, Sir, there is the Hindustan Cables Factory which is entrusted with the work of manufacturing only telephone wires; why not they manufacture telegraph wires in this country?

Mr. Deputy-Speaker: If that aluminium wire is also stolen?

Shri N. B. Chowdhury: The copper wire is very costly, Sir, and it is not to be found here. They have to import it. Suppose an embargo is placed on this commodity, it will not be possible to import it. So, in such circumstances, it would be very difficult to maintain the essential services. For those reasons it is very necessary that a telegraph wire factory is set up in this country.

[Shri N. B. Chowdhury]

With these words, I would like to say that the Government should take greater care to see that innocent people are not harassed because the prosecution in this case has no responsibility of letting in initial evidence regarding the particular telegraph wire being Government property.

Shri T. B. Vittal Rao (Khammam): Mr. Deputy-Speaker, Sir, this is a Central subject. When telegraph wires are stolen, the first thing the local police do is, in order to short-circuit the proceedings, to catch hold of the line-man and supervisor and harass them, but the department does not provide any sort of protection to them. What I want to ask the Minister is whether some sort of safeguards are provided to them from police harassment. Somebody steals away the wires, and the departmental linemen and engineering supervisors are harassed and put all sorts of questions. Sir, I would like the Minister to give them some safeguards from police harassment. That is all that I have to say on this Bill.

Shri Raghavachari (Penukonda): This is no doubt a simple matter. I think that the law of evidence, in so far as the burden of proof is concerned, is sought to be inverted in this case. We know of offence, particularly of 'being in possession of stolen property'; but now the case here is of one being in possession of copper wire of a particular manufacture. Therefore, the Government want to make mere possession of an article an offence unless the man in possession explains his innocence. It is rather a very strange kind of thing. There are two or three difficulties. One is that there is absolutely no place for a 'guilty mind' in this case and to make the mere possession an offence is most unjust. Secondly, they have no doubt described the copper wire to be of a particular gauge or something of the kind. The question is whether copper wires of that gauge were not available for sale: in other words, were

not people already importing or purchasing and selling such wires? In all such cases he must establish his lawful possession. We do not expect vouchers and accounts and other things to prove it. If those wires were already available in the country by purchase or gift or by any way, to make a law to-day that if you are found in possession of such wires, you had better explain your lawful possession, would mean serious injustice.

The other point I wish to say is this. The language here in Section 5 is "Penalty for unlawful possession of telegraph wires", but what is stated below is penalty for possession. What is "being lawfully in possession"? I pay for something and get into possession. Is it unlawful possession? Therefore you should omit the words "unless he proves that the telegraph wires came into his possession lawfully". It is only some people that get permission to sell, but here it is said to apply to every person who is in possession. So, if the 'guilty mind' is taken away, it becomes difficult. Without any kind of a regard to the mind of a person namely the guilty mind, I feel, Sir, that this is taking too much of powers simply because telegraph wires are often stolen—though they are valuable property; they are kept in the fields and everywhere and available therefore to anybody. Therefore, the matter, though simple, requires to be carefully considered as it involves a principle of criminal jurisprudence where the guilty mind is entirely taken away.

Shri S. S. More (Sholapur): I do not wish to repeat the points which have been put to the House by my learned friend, Shri Raghavachari. I would like to ask one or two questions of the Minister. In the Statement of Objects and Reasons, it has been stated that in some cases, interpretation by courts was adverse to Government and therefore this reference has been made,—

"In interpreting this section, the courts have held in one or two in-

stances that before the onus shifts to the accused to prove that he came into possession of the wires lawfully, the prosecution has to discharge the initial onus of furnishing evidence on which the courts would have reason to believe that the wires were or had been the property of the Posts and Telegraphs Department."

The Deputy Minister of Communications (Shri Raj Bahadur): The hon. Member is not audible to me. Will he speak a little louder please?

Shri S. S. More: I was referring to the Statement of Objects and Reasons and it is stated there that Government found it extremely difficult to establish the identity of the property in question and that some courts came to the conclusion that Government did not discharge the initial onus of furnishing evidence before the onus was shifted on to the person in dock to prove the legality of his own possession. Here the reference is to one or two courts. I should like to know from the Minister which courts gave that decision. Were they courts of the lowest order or district courts or High Courts or the Supreme Court? Supposing in some cases which were being tried in the lower subordinate magistrate's court it was found difficult to prove the identity, is it fair to amend the Act casting the onus on the accused in every case? So, I would like the Minister to specify definitely in what particular cases such an interpretation was given. It was perhaps a natural interpretation and the court did not go wrong in holding in those cases that it was the Government's responsibility to prove that the property belonged to the Posts and Telegraphs Department. If Government failed to discharge that initial onus, they cannot blame the courts for putting that sort of interpretation. I think that bringing in this reference the adverse decisions of the courts in this vague manner is likely to mislead the House. We must know why the courts came to this conclusion and whether there was any legal defect in our own statute or whether it was the

incompetence of those men in charge of the case to prove it. For the incompetence of those persons, certain provisions are being sought to be placed on the statute book. As a matter of fact, by this provision we shall be giving shield and cover to incompetent prosecutors or persons conducting the case on behalf of the prosecution. The rustics, in many cases, do not know the make of the wires.

Pandit K. C. Sharma (Meerut Distt.—South): Why should rustics have this?

Shri S. S. More: As a matter of fact, they are not endowed with that amount of education. Some innocent persons may casually come in possession of these wires. (*Interruption*). My hon. friends have better experience of the wires, but I plead that I am very innocent in this matter. My submission is that I do know something of law and I should say that the Minister owes to this House an explanation as to what forced Government to come with this sort of drastic amendment.

Pandit K. C. Sharma: I beg to submit that in view of the addition of another section, namely, section 4A, and further in view of the amendment of section 6, this controversial clause, i.e. the omission of words in section 5, is unnecessary, because the very possession, under section 6 as amended, becomes unlawful and punishable. Therefore, the removal of these words from section 5 which, Mr. More referred to as being controversial, is unnecessary.

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I have further to submit that I do not agree with my friends that there is any question of a principle involved so far as the onus of proof of innocence is concerned. As a matter of fact, there have been a number of cases of theft of this kind of wire. This sort of commodity is not available anywhere. It is Government property. So, the very fact that one is in possession of this kind of wire presupposes—it *prima facie* proves—that the wire is stolen property. The courts may have given a judgement, sometimes

[Pandit K. C. Sharma]

courts give wrong judgment, and the courts are not always right; but the lawyer's stand is perfectly right. Without even removing the word, the court has no option but to come to the conclusion that the type of wire involved is stolen property. "Believe" means, "believe under the circumstances." When I say that property belongs to A, it cannot belong to B, it cannot belong to C, it cannot belong to D. There are four persons who are likely to possess the property. When B, C and D are eliminated, only one remains with the property. That property belongs to A. It cannot belong to a private citizen, because it cannot be imported except by the Government. The presumption is that the property belongs to Government—Government has the right of presumption—and whosoever possesses it, other than Government, is in possession of unlawful property and, as such, must be punished.

Further, this sort of offence must be taken very serious note of. I am one of those who would plead that a law should be passed that any man who is interfering with the telegraph wire or with communications of this kind in the country must be shot at first sight. Otherwise, the whole set-up will go wrong. It is a very serious thing, and this sort of offence is a very serious one. With these words, Sir, I conclude.

Shri Sārmah (Golaghat-Jorhat): The hon. Member Mr. More said that he knows a little bit of law and as a person who knows law thought that this piece of legislation, particularly this amendment, was not necessary. Perhaps the hon. Member has become, with his knowledge of law, an idealist unrelated to facts. I know also a little bit of law and I also know a little bit of facts concerned with such offences. Overnight, a mile or two-mile length of copper wire is stolen away and the telephone communication for a place for a distance of four or six miles goes completely out of contact. Now, Sir, ever under Section 411, I.P.C., a *prima facie* case

has to be made out. But then, recent possession of the property is also evidence in support of that offence, a *prima facie* case. In such offences, there are a set of unscrupulous traders or blackmarketers who incite bad characters to cut and steal away these wires from the poles in considerable length and give them to those people who have got good resources. These blackmarketers who purchase from the thieves have good resources. They have long arms. They have got organization. In certain States it is found that overnight wagon-loads of mustard seed becomes sesamum, rice becomes something else and sometimes potato becomes tobacco. All these things happen because the traders are resourceful people and they have got plenty of money in their hands. Since the price of copper rose, the blackmarketers made good profit out of them. Therefore, I submit, Sir, that my idealist lawyer friends would please come down to brass tacks and face facts. I hope they will unequivocally support this salutary measure, particularly the amendment to clause 5.

Shri N. Rachiah (Mysore—Reserved—Sch. Castes): I wholeheartedly support this amending Bill, because I come from Mysore State where I know of many cases in which copper wires in large quantities, belonging to the Posts and Telegraphs Department, have been stolen by the people there and the people have been arrested. I think on the 7th November there was a theft committed in Mysore State, of the copper wire, when I was just leaving Mysore. One telephone operator whom I know came and told me that certain quantities of wire were actually cut and were stolen and he was hurrying to go and investigate the matter. In Mysore generally there are so many instances where these thefts are common. In our country many a time, even without the sanction of law, very many people are subject to all sorts of inconveniences, exploitation and the like. When such is the case in our society, naturally,

unscrupulous people will certainly try to knock off the Government property with the result that there will be no law and order, no respect or honour for the Government. As such, it is quite essential to see that the Government property at least should be protected in the interests of the nation. There must be a fear and apprehension in the minds of the people that theft of a property belonging to the Government is a serious offence. "First, it is our property, and we should not touch it and we should not steal it." That should be the mentality or the attitude of the citizens of the country. When such things are happening without realising the seriousness of the theft, my friends say there should not be any harassment. The police officer can never harass anybody unless there is a complaint by the department concerned or the officer concerned that such and such a theft has been committed. How can the police officer go and arrest the people and harass them? There must be a complaint, because theft is a cognizable offence. It is only on receipt of the complaint that a police officer goes and arrests the person. I am sure any police officer, as a matter of fact—I have experience of this thing—will never go and arrest a man unnecessarily and without the law behind his action. So, it is very essential that the law must be there to see that such things should not be repeated, in the interests of the country.

Now, in the second paragraph of the Statement of Objects and Reasons, the onus of proving that the copper wires were not the property of the Department will lie on the accused. It is quite reasonable and justifiable, because, when a man is in possession of stolen property, he can prove that "I bought it from somebody. I never got the receipt. I am in possession of this property by lawful means." Further whenever there is theft of a Government property, there is little question of the quantity or site from which it is stolen. The site can easily be identified and the wire

also can be identified as Government property and not private property. As such, the onus of proving that the copper wires were not the property of the Department should lie on the accused is quite justifiable and proper. I wholeheartedly support this Bill, Sir, because it is in the interests of the Government property, and there must be fear and apprehension in the minds of the people.

Shri N. Somana (Coorg): Mr. Deputy-Speaker, I also associate myself in fully supporting this Bill. I feel that in this measure the question of *mens rea* is not important. This is a very salutary measure; it is not only a curative but a preventive measure. The description of telegraph wire is made clear in Section 2(b) and reads thus:

"telegraph wire means any copper wire the gauge of which, as measured in terms of pounds per mile, is between 147 and 153, or between 196 and 204 or between 294 and 306."

It is made clear that no person can possess such wire unlawfully. If he is able to show that it is lawful possession that he has, then it is all right; otherwise, every possession becomes unlawful *ipso facto*. It is made clear that this is a special law. My hon. friends Shri Raghavachari and Shri More were referring to the question of the general law and said that the prosecution ought to prove the case, but this is a special law and I am sure my hon. friends will admit that in all special laws the onus can shift to the accused. Since this is a special law, the onus can shift to the accused because there is a preventive section which says that copper wire of a certain description shall not be sold or purchased except with the permission of the authorities. This measure does not go against any principle of jurisprudence. It is a necessary measure. As has been made clear in the Statement of Objects and Reasons, in cases of thefts, it will be very difficult for the Postal Department or for the prosecution to prove

[Shri N. Somana]

that the wire belonged to the Postal Department. That is why some courts rightly felt—we need not go into the question as to which courts felt—that unless the prosecution was able to prove that the wires belonged to the Postal Department, no case can be established of theft. In order to get over this difficulty of the Postal Department and the prosecution, this Bill has been brought forward. My humble opinion is that it is a very salutary measure and I hope the House will wholeheartedly support it.

Shri V. P. Nayar (Chirayinkil): May I seek a clarification from the hon. Member?

Mr. Deputy-Speaker: No clarification from one hon. Member to another. All clarifications will be made by the hon. Minister.

Shri V. P. Nayar: I only thought that if it was clarified, it might possibly avoid a long speech.

Mr. Deputy-Speaker: Each hon. Member is entitled to say something and not make clarifications across the benches.

Shri Tek Chand (Ambala-Simla): Sir, copper wire is a very precious commodity, but more precious than copper wire are the liberties of human beings; more precious than copper wire are the cardinal principles of criminal jurisprudence. For centuries, there is one elementary and fundamental principle of criminal jurisprudence: *Actus non facit reum, nisi mens sit rea*. We have given a go-by to that principle.

The Minister of Communications (Shri Jagjivan Ram): Many principles have been given a go-by.

Shri Tek Chand: This principle has been established in this country just as much as in other old liberty-loving, justice-loving and fairplay-loving countries of the world.

बाबू राम करायण सिंह (हजारीबाग पश्चिम): ठीक है !

Shri Tek Chand: Therefore, it is very important that anybody who is found in possession of the banned copper wire—before his guilt is established in a court of law by the prosecution on whom the onus heavily rests to prove his guilt—should not be deprived of his liberty simply because somebody has planted a little copper wire on him, or simply because he has been in possession of the banned quantity or the banned quality of copper wire. The important point to be considered by Government is this: just as in the case of a receiver of stolen property you have to prove two things, viz. (a) that the property was in fact stolen and (b) that the accused was a conscious receiver of the property, similarly so far as this precious article is concerned, it would have been desirable that before a man forfeits his liberty for a period upto five years it should be established—it should not be for him to establish but for the prosecution to establish—that he is the guilty man.

Mr. Deputy-Speaker: I am afraid hon. Members have lost sight of the scope of the Bill. It is not as if the burden of a criminal case is thrown on the accused. They merely say that after the passing of this Bill nobody shall purchase or sell copper wire except with the permission of the Government. If anybody obtains copper wire of this description without a licence, then it becomes unlawful possession.

Shri Tek Chand: May I elucidate the point? Suppose a person purchases a heap of junk of barbed wire or some old iron and in that heap of junk there has crept in some yard-lengths of this precious commodity also, it makes the possession of that commodity a dangerous and unlawful possession.

Mr. Deputy-Speaker: Possession is not harmful.

Shri Raghavachari: If you will read Section 5 in the Annexure, you will see that it says:—

"Whoever is found or is proved to have been in possession of any—"

quantity of telegraph wires which the court has reason to believe to be.....etc. etc."

This was the old Section. Now, they want to omit the words "which the court has reason to believe to be, or to have been, the property of the Posts and Telegraphs Department of the Central Government". That means, everybody in possession is an offender.

Mr. Deputy-Speaker: Possession without a licence.

Shri Raghavachari: In this, there is no question of licence.

Mr. Deputy-Speaker: I see the point. The hon. Member may proceed.

Shri Raj Bahadur: May I intervene to clarify the point or reserve my remarks till the time I reply?

Mr. Deputy-Speaker: He may reply at the end once and for all.

Shri Tek Chand: I was giving you an illustration, Sir. Suppose a person purchases some junk containing rusty material like barbed wire etc. and in that heap, there happen to be a few yards of this precious copper wire, he becomes guilty and in order to avert the impending disaster of five years incarceration and/or fine, he has to prove that he purchased this junk with his eyes shut and he was therefore innocent. The burden of proof rests on him. Take the analogy a step further. Suppose this individual who has purchased this junk innocently sells it innocently to another. Then that other person is in the same jeopardy. It is not that the length of wire has to be so many yards or feet. Even one yard is enough, and the innocent possessor or seller or purchaser of one yard of this copper wire stands to forfeit his liberty, and he has to establish his innocence. Therefore, whereas it is important that Government property should not be stolen, whereas it is of great moment that this copper wire should not change hands or should not be a subject matter of private dealings, it is equally important that

innocent people who come by its possession innocently ought not to be harassed and their liberty ought not to be jeopardised. If the danger is so great, as is being made out to be, Government could very well say: if a man is in possession of this quantity in a certain measure and the limit were given (that is half a ton or one quarter of a ton, whatever the unit of measure is) in that event the presumption would be against him and he has got to discharge the weight of the onus, the weight of the presumption. But in this case the law has become so strict that if it is to be found in any quantity, even if it happens to be half a seer, a pound of it, he stands to lose his liberty. This aspect is worthy of consideration of the hon. Minister. This is a matter which his Department should ponder over, and they should see that the liberty of the people is not trifled with, because a particular individual happens to be a *persona non grata* with the local police. Therefore, the danger of planting one yard.....

I see the hon. Deputy Minister is laughing. Well, I wish only to point out to him that there are cases virtually in every State where bottles of illicit liquor are planted, arms are planted and other articles are planted upon the opposite faction; or because the police agency or the excise agency which wants its palms to be greased which the man is not in a position to do, or in order to settle old scores these things are planted and an innocent man is on the wrong side of law.

Shri S. S. More: Perfectly correct!

Shri Tek Chand: That being so, it is extremely desirable that adequate steps should be taken to see that innocent men are not punished. Let the prosecution establish his guilt and then let the court impose upon him the appropriate punishment in the circumstances of the case.

Shri K. K. Basu (Diamond Harbour): Mr. Deputy Speaker, Sir, the Bill has been represented to be an innocuous one. In fact, it is a dangerous measure. The Statement of Objects and Reasons says that in one or two cases

[Shri K. K. Basu]

the courts of law held that under the existing law mere possession is not illegal.

Sir, yesterday I enquired of the hon Deputy Minister whether apart from the cases that took place.....

Shri Raj Bahadur: I wish to bring to your notice that the hon. Member Mr. Basu has spoken once yesterday.

Shri K. K. Basu: I put a question: I did not speak.

Mr. Deputy-Speaker: I am afraid at this rate we cannot conclude any debate. Hon. members have two methods of voicing their opinion. Some people may be satisfied by merely eliciting an answer to a question. By putting that question their turn is over. Other Members who have got some argument to be placed before the House, will be called upon to do so. How long can I go on?

Shri K. K. Basu: Let us then know the procedure of the House: is a member not entitled to put a question without giving up his right of speaking?

Shri Raj Bahadur: I would invite your attention to page 3755 of yesterday's proceedings. After I spoke Shri R. K. Chaudhuri spoke, and later Shri K. K. Basu. I have not spoken after that.

Shri R. K. Chaudhuri (Gauhati): May I know which R. K. Chaudhuri—Ranbir Singh Chaudhuri?

Shri Raj Bahadur: The hon. Member is too familiar to be mistaken. Of course, I have no objection, if you propose to give Shri Basu a chance again. If he was merely seeking a clarification, I should have been given an opportunity to reply.

Shri R. K. Chaudhuri: May I ask the hon. Minister whether he is sure I spoke yesterday? My hon. friend knows me very well and he cannot forget me.

Shri Raj Bahadur: I can assure nobody can forget Mr. R. K. Chaudhuri.

Mr. Deputy-Speaker: This is what I find in yesterday's proceedings.

"Shri Raj Bahadur: The Bill itself says that if anybody wants to be in possession of such wires, he can do so only with the permission of the prescribed authority."

The Minister does not continue: he sits down. Shri R. K. Chaudhuri never escapes my eye and I called upon him. He spoke as follows:

"During war-time a lot of these wires was disposed of. Certain American officers gave certificates which ended in the acquittal of certain persons who had been proceeded against.

Shri K. K. Basu: I would like to know for clarification whether such types of wires, even if they are imported under licence, can be sold in the open market and any private individual can legally purchase it or be in possession of it? We would also like to know whether in recent times there have been thefts only of wires of this gauge. The Minister's speech does not explain these things."

Then I called upon Shri N. B. Chowdhury to speak. It is not as if these are interruptions to the hon. Minister's speech. He had concluded his speech. Then I looked round and called one Member after another. Some hon. Member may put it in the form of questions; other hon. Members may speak and ask for some elucidation. If during the speech of a Minister an interjection is made for clarification it is a different question. In this case the hon. Member has had his chance. The hon. Member, if he wanted could have continued.

Shri K. K. Basu: I sat down because I thought the hon. Minister was going to reply me. In the meantime you called another hon. Member.

Shri Raj Bahadur: If the hon. Member wants to contribute anything I welcome it.

Mr. Deputy-Speaker: This leads to all sorts of confusion both in the

minds of the Chair and of hon. Members. I do not want any hon. Member to go away with the impression that he has been denied an opportunity of speaking.

After the hon. Minister has concluded, if any hon. Member wants to partake in the discussion he should follow up with a speech. During the course of the Minister's speech if any question is put, he will answer it, if he chooses to, then and there. Let hon. Members, either by way of questions or suggestions, have only one chance, because otherwise it leads to difficulty.

I am prepared to call upon Shri Basu now.

Shri R. K. Chaudhuri: Not me?

Mr. Deputy-Speaker: I am not going to allow Shri Chaudhuri.

Shri R. K. Chaudhuri: Usually the points of information are asked during the speech of a Minister or a particular Member. But you, Sir, have ruled more than once that the questions should be put to the Minister at the end of his speech. Yesterday, therefore, I drew his pointed attention to the fact that a lot of these wires was disposed of during war time. That is all. If you require any evidence I can cite my friend Shri Jhunjhunwala because I told him 'I am not going to speak now', and he said 'you speak tomorrow'.

Mr. Deputy-Speaker: To avoid any misunderstanding, hereafter let us follow one procedure.

Shri S. S. More: You should not be so rigid, Sir.

Mr. Deputy-Speaker: The hon. Member has got a knack of saying things. It is not a question of rigidity. There must be an end to this. I did not ask the hon. Minister to point out that hon. Members have spoken.

During the course of the speech, as and when necessary for clarification, if a Member gets up and the Minister yields and gives way, he may answer then and there. At the end

of it, if a Member wants to put any questions, whoever wants, let him do so. But if he wants to speak, let him reserve those questions to the end of his speech. Otherwise it creates confusion. Then in his speech if he puts a question let the Minister, if he is prepared, get up and answer it. If an hon. Member wants to put only questions, let him put those questions and sit down. Shri R. K. Chaudhuri might have continued yesterday. I do not want to prevent hon. Members from speaking. But this confusion may be avoided.

Shri K. K. Basu: Sir, I want to emphasise two points. As I read the existing Act, there are provisions under section 3 where a particular time is given within which the persons who possess certain types of telegraph wires should make a declaration. There is also a time given to convert and sell out if persons have in their possession telegraph wires which exceed a certain quantity. In spite of these two specific provisions in the parent Act, the Minister has brought forward this amending Bill in order to avoid certain judicial decisions. As my friend Mr. More has put it, I would like to know if the Minister has got an overwhelming number of cases supporting the point of view that normally under the existing law persons who possess certain types of telegraph wires can be prosecuted under those provisions, why did he not go up to the highest court of appeal? That point he has not clarified. There are thousands of judicaries and courts in our country. One or two of them might have decided in a particular fashion, whereas others might completely accept the intention of the legislators as enunciated in the parent Act. Therefore, unless this provision is made clear enough, this particular amending Bill has very dangerous potentialities.

Now the position is that anybody who possesses these wires is deemed to be in illegal possession of the same. But the fact that the particular wire belongs to the Posts and

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Telegraphs Department has to be proved. The words "which the court has reason to believe" give the courts a wide discretionary power. If we accept that the courts are certainly reasonable and very judicious, they will normally support the Government that these being telegraph wires which are not normally found in the market, they belong to the Posts and Telegraphs Department in view of the specific provisions contained in section 3 of the parent Act.

The hon. Minister wants to delete the provision "which the court has reason to believe to be, or to have been, the property of the Posts and Telegraphs Department of the Central Government". Therefore what happens now is, as my friends have put it, anybody who has even a foot of telegraph wire inadvertently or by curiosity—some villager might have kept it out of curiosity—he is to be prosecuted.

Also, the provisions of section 4A which is going to be inserted are very dangerous. As you have rightly pointed out, these sales and purchase have to be under licence, by permit. Suppose an importer is allowed—Government does not say that this particular type of telegraph wires can be manufactured or imported only at governmental level—Government may give licence to an importer. If an importer buys them and keeps them in stock, from where a portion is stolen. The person who stocks from the import will be prosecuted because he happens to possess a particular type of wire which is used only by the Government or Government is the only purchaser. Here the stockist will have a special advantage from his counterpart of other goods.

Therefore I consider that though the Bill might look very innocuous it has very dangerous potentialities. I feel that under the existing provisions in the parent Act there are enough provisions under which a person who is in illegal possession of this particular

type of telegraph wires can be prosecuted. That being so I consider that the present measure is, if I may say so, the thin end of the wedge. Out of about five hundred cases only in two or three instances the courts have not agreed with the institution or accepted the mind of the legislators. If we allow such things to continue and give such powers to the executive and allow such an attitude on their part so far as judicial institutions are concerned, if we allow all the normally accepted principles of law to be given the go-by, whatever semblance of democracy we have in our country will be destroyed. I would like the Minister to consider it carefully and I hope he will take the best possible legal advice that Government has. It is not necessary to amend the provisions of the existing Act. This will have dangerous potentialities which might affect the interests and liberties of the common man. That is all that I wanted to say, Sir.

Shri R. K. Chaudhuri: Mr. Deputy-Speaker, Sir, it is said in our country that there is nothing like a small river or a big river, and there is nothing like a small snake or a big snake. A small river can drown a man as much as a big river can. A person will die from the bite of a small snake as quickly as he will die from the bite of a big snake. Similarly, there is no difference so far as this House is concerned between a big Bill and a small Bill. In fact I have found that the small Bills are more dangerous and require much greater attention than the bigger ones. Therefore I hope, Sir, that you will kindly pardon me if I take a little time in bringing to the notice of the hon. Minister the grievances which I feel on account of this Bill.

Hon. Members who were present at yesterday evening's gathering when Mr. Nixon spoke would remember this. He said that there is some similarity between India and the United States. He said: The air you breathe here is free; there is tolerance of religion, freedom of speech, freedom of the

press, justice under law and dedication to the way of peace. I do not know what Mr. Nixon will say after he hears that in this House we are just indulging in introducing a new idea of criminal jurisprudence, and that new idea is that the burden of proving his innocence will be on the accused. I do not know what the American law on this subject is. I know that the French people have got a sort of a maxim that the burden of proving his innocence is on the accused. But there is one stage where the Police goes into the case very carefully and then the burden falls on the accused person. We were so long following the salutary principle of British jurisprudence. We have always been wanting that a person who wants the accused to be adjudged guilty, should give his evidence in support of his case. I have been rather pained from the way in which we are proceeding. Yesterday and day before yesterday, while discussing the Banking Companies Act Amendment Bill, I heard a mild echo of the days of Warren Hastings; I heard a mild echo of the days of Justice Rowlett. Warren Hastings hanged a man because, according to him, he was guilty of forgery. Hundreds of men will be hanged, I say from the way in which the Banking Companies Act Amendment Bill was discussed yesterday and day before, if we follow the way of Warren Hastings.

Shri Jagjivan Ram: Try to adjust yourself to the changing circumstances.

Shri R. K. Chaudhuri: Justice Rowlett wanted to do the very thing which my hon. friend Shri Raj Bahadur is going to do now. He wanted that everybody should be found guilty, clapped into jail, unless he can prove his innocence. That is the principle which is being followed now. Sir, I am a lawyer. I have regretfully to observe this. A lawyer gets his fame and enters into public life for his practice at the Bar. But, the moment he becomes a Minister or some authority, he flings off the ladder and forgets

his law. It is as if somebody has said, unless you forget the law and overcome the scruples of a sense of justice, you cannot become a good Minister.

An Hon. Member: Is that your experience?

Pandit Thakur Das Bhargava (Gurgaon): He is speaking of others.

Shri Jagjivan Ram: That is why perhaps he failed.

Shri R. K. Chaudhuri: Whatever you say, I would bear calmly and cheerfully because I know that you have not...

Mr. Deputy-Speaker: The hon. Member will kindly address the Chair.

Shri R. K. Chaudhuri: That is a mistake which I always commit. Sometimes, the Chair is otherwise occupied—I mean no reflection—and does not stare at us.

Mr. Deputy-Speaker: I always like to see the cheerful face of the hon. Member.

Shri R. K. Chaudhuri: I also feel that there will be no mischief in staring at you.

Sardar A. S. Saigal (Bilaspur): That is a reflection on the Chair.

Pandit Thakur Das Bhargava: No, no. He is incapable of making any reflection.

Shri R. K. Chaudhuri: What I was trying to impress was this. There are a few lines at the end of the Statement of Objects and Reasons and they can also be found in the section itself. The section provides that a sale or purchase can be effected only with the permission of the prescribed authority. Such a sale as I had mentioned yesterday by way of enquiry did actually take place in the year 1946, particularly in those areas where there were war materials. The American army sold large quantities of telegraph and telephone wires and when they were prosecuted afterwards, particularly I remember cases in Tinsukia and Dibrugarh, they produced the receipts from

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the Army officers and the prosecutions were withdrawn. Does my hon. friend the Minister contend that all these wires have now been entirely rendered useless and have not passed from hand to hand? If such a thing had already happened, it would be difficult for the person now in possession of the wires to show that he purchased it during the war at such and such a time, or that he himself did not purchase it but he purchased it from such and such a person who purchased it from the Army department.

Then, again, you have provided in this very law that a purchase or sale can take place with the permission of the prescribed authority. One person purchases with permission from the prescribed authority. After some years, he sells it to somebody else without any permission. No permission is perhaps needed for such sales. The other man will be prosecuted and prosecuted with success because he would not be able to prove that he has the permission of the prescribed authority. This is the loophole through which the persons actually in possession of these materials will escape and the whole object of the law will not be achieved. When the previous provision was introduced under clause 4, there was some idea that they would be able to rope in all criminals of this nature. It was found actually in the trial that the charge could not be proved. Similarly here when you have left this loophole, whereas purchase and sale can be effected with the permission of the prescribed authority, further change of hands cannot be stopped by this law at all. A clever and guilty man may escape; an innocent man may suffer. The object of the hon. Minister will not be achieved. Similarly, again, there is one great thing which cannot be got over however much you may like to arrest men and hang them in the next lamp post. That sort of idea may come in the future, if, unfortunately, the Congress gets unseated

and some other party comes into power.

Shri S. S. More: If you continue in power for some time.

Shri R. K. Chaudhuri: So long as you have any scruples for criminal jurisprudence, you cannot succeed in the prosecution merely on account of these two clauses. Conscious possession will have to be proved. I may have hundreds of bundles of wires in my courtyard. Unless conscious possession is established, you cannot get away with the prosecution. Unless you have got a telegraph magistrate, just as you have Railway magistrates, who can try cases in a telegraphic method and convict people.

Shri Raj Bahadur: Does the hon. Member want that the provisions of the Bill should be more rigid? He is arguing for that.

Shri R. K. Chaudhuri: My point is that he will not achieve the object with which he has brought forward this measure. The only thing will be, it will throw into mud the fair name of India. That is what I am saying. You will pass such drastic laws calling upon the accused to prove his innocence. You will pass laws which will only bring discredit to you. At the same time, the object with which the laws are made will not be achieved. How much of these telegraph and telephone wires will be there throughout India? For the purpose of these worn out telegraph and telephone wires, you are introducing a measure which does not bring any credit to the Government.

पंडित ठाकुर दास भागंब : जनाब डिप्टी स्पीकर साहब, में ने चन्द तकरीरें इस बिल के बारे में सुनीं । में अब से अर्ज करूंगा कि आज वह तकरीरें की जा रही हैं जो कि शायद उस वक्त बाजिब होतीं जब कि ओरीजिनल ऐक्ट हाउस में पास हुआ था । जिस वक्त कि ओरीजिनल ऐक्ट हाउस में

आया था उस वक्त भी इस बिल के ऊपर थोड़ा बहुत ऐतराज किया गया था और मैं भी उन अशाखास में से था जिन्होंने इस बिल के बारे में ऐतराज किया था। लेकिन आज अगर आप गहरी निगाह से देखें तो वह सब के सब एतराजात रह जाते हैं। इस बिल के देखने में और जांचने में बहुत कुछ इमेजीनेशन पर काम हुआ है और आम तौर पर मेरे दोस्त जो कानून से बहुत ज्यादा वाकिफ हैं उन्होंने इस बिल के अन्दर बहुत सी नुक्ताचीनी की है। एक नुक्ताचीनी से तो मैं हैरान होता हूँ कि जब श्री रोहिणी कुमार चौधरी साहब की तरफ देखता हूँ कि वह बतलाते हैं कि छोटे सांप और बड़े सांप में कोई तमीज नहीं है, वह इस बड़े सांप और छोटे सांप में कोई तमीज नहीं बताते। सुना यह था कि "a German says : All Germans are liars" और शायद मैं जहां तक समझता हूँ चौधरी साहब उन्हीं मिनिस्टर्स में से हूँ कि जो पहले मिनिस्टर रह चुके हैं और उनको इसका बहुत तजुर्बा है कि वकील की खूबियों का होना असल में मिनिस्ट्री की खूबियों के कितना मुसालिफ है। मुझे हैरानी तो यह है कि इतने कानूनदां होकर भी इस प्रकार क्यों इतनी नुक्ताचीनी करते हैं? मैं नहीं समझता कि हिन्दुस्तान का नाम किस तरह से खराब हो जायेगा अगर बर्डन आफ प्रूफ जो हमने सन् ५० में मुलजिम पर डाला था, वह वहीं का वहीं कायम है। आज इस अमेंडिंग बिल के बारे में ऐतराज किया जा रहा है और कहा जा रहा है कि बर्डन आफ प्रूफ ऐक्यूज्ड पर चला जायेगा, तो वह तो पहले से ही मौजूद है, उस में हम कोई तबदीली ही नहीं कर रहे हैं। इस अमेंडिंग बिल में हमने दो तबदीली की हैं और आज उस पुराने बिल का जिक्र करना उचित नहीं है। पहली तबदीली यह

है कि जहां कानून दफा पांच में यह जरूरी था कि इस्तगासा यह साबित करता कि यह टेलीग्राफ तार पोस्ट आफिस के हैं और उस पर अदालत किसी नतीजे पर पहुंच कर मुकदमें का फैसला करती, अब इस अमेंडिंग बिल के मुताबिक प्रासिक्यूशन को वह वजूहात पेश करने की जरूरत नहीं है। मैं अदब से अर्ज करूंगा कि ओरीजनल सेक्शन को मुलाहिजा फरमायें, तो पायेंगे कि दफा पांच में उस के अन्दर भी यह जरूरी नहीं था कि सरकार की तरफ से यह साबित किया जाता कि यह टेलीग्राफ वायर सरकार का माल है या पोस्ट आफिस की प्रापरटी है।

Shri R. K. Chaudhuri: On a point of information, does the hon. Member want that in all criminal offences the burden of proof should be on the accused, or, if he has made any distinction, what is the reason for making the distinction? That should be made clear.

पंडित ठाकुर दास भागवत : मुझे खुशी है कि मेरे लायक दोस्त ने यह सवाल इस तरीके से पूछा कि जो फिल वाकया इस बिल में तो एराइज नहीं होता। मैं बीस मिसालें दूंगा जिससे आपको मालूम हो जायेगा कि आज भी मुलजिम के ऊपर बर्डन डाला जाता है। अमरीका और विलायत की मिसाल तो दी गई, लेकिन चौधरी साहब खुद अपने कानून को भूल गये कि दफा ११४ के ही अन्दर दर्ज है कि अगर चोरी का माल किसी के कब्जे में पाया जाय, उस का रीसेन्ट पजेणन हो तो उस को अपनी इन्वोर्सेंस साबित करनी होती है। इसी तरह अगर किसी के कब्जे से ऐसे आर्म्स पाये जायें जिनका पजेणन अन-लाफुल हो, तो दफा २० के मुताबिक उस शस्त्र को साबित करना होता है कि वह आर्म्स उस के पास किस तरह से आये और इसलिये हमारे कुछ दोस्तों का यह ऐतराज करना कि हम कानून के बरखिलाफ जा रहे

[संघित अकुरदास गंभ]

हैं, दुस्त नहीं है, हम लैंड में जो कानून रायज है, उसकी खिलाफरजी नहीं कर रहे हैं। जहां तक उसूल की बात है, वे खास हालत में लगते हैं। वाक्या यह है कि सारे के सारे वायर जितने हैं, यह गवर्नमेंट की प्राप्ती है, टेलीग्राफ वायरस जितने हैं, यह सब के सब गवर्नमेंट ने इम्पोर्ट किये हैं और इसलिये यह कहना कि यह आम तौर पर मार्केट में बिकते हैं, दुस्त नहीं है। मैंने स्वर्गीय श्री खुर्शीदलाल से जिन्होंने इस लेजिस्लेशन को रखा था, मैंने उनसे एक सवाल पूछा था कि कितने तार अब तक चोरी गये हैं, तो उन्होंने अपनी स्पीच में उस वक्त बतलाया था और मेरे लायक दोस्त उस स्पीच को अगर रेफर करेंगे तो उनको मालूम होगा कि उन्होंने जवाब में बतलाया था कि कई सौ मील के वायर कई स्टेट्स के अन्दर चोरी हुये। क्या मेरे लायक दोस्त यह चाहते हैं कि यह चोरी का माल जो सिवाय सरकार के और किसी का नहीं हो सकता, हम इस कानून में ऐसी तबदीली कर दें जिससे कोई मुकदमा साबित ही न हो सके। हमने तो सिर्फ इतनी तबदीली की है कि अब से प्रासिक्यूशन को यह साबित करने की जरूरत नहीं है कि फलां शरस ने टेलीग्राफ वायर की चोरी की है और वह सजा का मुस्तहक है, अब से यह एण्डू कर लिया जायेगा कि यह टेलीग्राफ वायर सरकार के उस डिपार्टमेंट के हैं और मैं नहीं समझता कि ऐसा एण्डू करने में कोई गलती है। यहां पर एक चीज गौर-तलब है, चूंकि सरकार ने बहुत सा ऐसा माल डिस्पोजल को दे दिया था, इसलिये हर शरस यह कह सकता है कि साहब यह जो माल मेरे पास से निकला है, यह मैंने डिस्पोजल से खरीदा है, लेकिन मैं अर्ज करूँ कि सन् ५० के अन्दर यह एकट-पास हुआ और उसमें

एक दफा यह थी जिसके मातहत ६ महीने की मुद्दत दी गई थी, दफा ३ की रू से हर एक शरस को यह कहा गया था कि वह ऐसे माल को जो उस के पास हो डिक्लेयर कर दे और ऐसा करने पर उस पर कोई जुर्माना आयद नहीं होगा और दफा चार की रू से पबलिक पर यह बाजे किया गया था कि जिनके कब्जे में तार हों, वह उसको कनवर्ट कर लें और तबदील करके उस की कीमत वसूल कर लें, अब मला बतलाइये कि ऐसा प्राविजन होते हुये भी जिन लोगों के पास तार रहा हो और वह अब तक उस को तबदील नहीं कर सके, उस को डिक्लेयर नहीं कर सके, आज कैसे कह सकते हैं कि साहब हमने तो यह माल बहुत इन्वोस्टली ले लिया था और आज यह जो बड़े जोर शोर से बहस की गई है कि इस विल के मुताबिक अगर किसी गरीब और ईमानदार आदमी जिसके पास एक गज तार भी निकल आया, वह ट्रबल में आ जायेगा, यह सारी की सारी उनकी दिमांगी उपज है। जनाब मुलाहिजा फरमायेंगे कि सन् ५० में हमने जो ऐक्ट पास किया था, उसके अन्दर हमने एक दफा यह रखी थी कि यह कौगनेजेबुल केस नहीं है, डिपार्ट-मेंट के चन्द बड़े ओहदेदारों को अख्तियार है कि वह कम्पलेंट कर सकें, और इसकी सुनवाई किसी मानरेरी मजिस्ट्रेट या सेकेन्ड क्लास मजिस्ट्रेट के यहां नहीं होगी, बल्कि यह अच्छे से अच्छे मजिस्ट्रेट के पास जायेगी, प्रेसीडेंसी मजिस्ट्रेट या फर्स्ट क्लास मजिस्ट्रेट ही उसका फैसला करेगा, मैं पूछता हूँ कि क्या शराब और अफीम के लिये कानून नहीं है, लेकिन क्या नाजायज शराब बनाई नहीं जाती या अफीम नाजायज तौर पर रखी नहीं जाती, लेकिन ला सब के लिये मौजूद है और इसका यह मतलब तो नहीं हो जाता

कि उस के लिये ला नहीं रहना चाहिये । अब जहां तक पजेशन का ताल्लुक है, पजेशन के मायने सिर्फ फिजिकल पजेशन के नहीं हैं, बल्कि कांशस पजेशन के हैं । जैसे अगर मेरे कब्जे में से कोई चोरी का माल निकले, मेरी जेब में कोई चीज बिना मेरे इल्म के डाल दे, तो मैं ऐसे माल के लिये जिम्मेवार करार नहीं दिया जा सकता, मैं उस हालत में बिल्कुल मुजरिम नहीं हूँ और मैं उस हालत में यह साबित कर सकूंगा कि मुझे इसके सम्बन्ध में इल्म नहीं है और इस तरह वह पजेशन कांशस पजेशन साबित नहीं होता और इसलिये मेरे दोस्तों का यह ऐतराज करना कि इसके अन्दर बहुत से बेगुनाह आदमी फंस जायेंगे, दुरुस्त नहीं है । आप देखेंगे जो objects and reasons हमारे सामने पेश किये गये हैं उसके लिहाज से पुराने कानून में जो खामी थी वह दूर करने के लिये सरकार यह अर्मेंडिंग बिल लाई है, तो हमें इसको इस तरह से ही पास करना चाहिये जिससे आयन्दा से ऐसे तार की खरीद फरोस्त पब्लिक में बंद हो जाय और गवर्नमेंट के इस कीमती सामान की चोरी न हो । और इसलिये आज फिर इस बिल के सम्बन्ध में पुरानी नुक्ताचीनी मुनासिब और जायज नहीं है, सरकार ने जिस हद तक तरमीम करना जरूरी समझा, उसी हद तक सन् ५० के लिये यह अर्मेंडिंग बिल लाई है और मैं इसमें कोई खराबी नहीं देखता जिसकी वजह से मैं यह कह सकूँ कि सरकार किसी खास कानून के बरखिलाफ या किसी खास उसूल के बरखिलाफ काम कर रही है और जिसके रहते बेगुनाह आदमी फंस जायेंगे । मैं इस वास्ते इसको बड़े जोर से सपोर्ट करता हूँ ।

बाबू रामनारायण सिंह (हजार बाग पश्चिम) : सभापति महोदय, चूंकि भाई 572 PSD

ठाकुर दास बहुत अच्छे वकील हैं, और एक अच्छे वकील के माने यही होते हैं कि जहां कोई चीज न हो, वहां साबित कर दे कि कुछ है और जहां बहुत कुछ हो, वहां के लिये साबित कर दे कि कुछ भी नहीं है ।

डिपार्टमेंट की तरफ से, मिनिस्टर की तरफ से साफ तौर पर यहां पर लिख दिया गया है कि अपने को निर्दोष साबित करने का दायित्व दोषी पर रहेगा । इस बारे में मेरे भाई का यह कहना कि ऐसा तो हमने बहुत बार किया है जिसके अनुसार दोषी व्यक्ति को साबित करना पड़ता है कि वह निर्दोष है । मेरा कहना है कि जब हम कानून बनाते हैं, हमें ख्याल रखना चाहिये कि किसी सिद्धान्त का खून न हो और इस में भी क्या कोई शक है कि आज इस बिल के द्वारा एक बहुत बड़े सिद्धान्त का खून हो रहा है । आज मैं समझता हूँ कि फ्रांस के अलावा किसी देश में नहीं है कि दोषी आदमी को साबित करना पड़े कि मैं खतावार नहीं हूँ ।

सभापति महोदय, देहातों में देखा जाता है कि झगड़े होते हैं, बैर विरोध आपस में रहता है, किसी को जब बैर का बदला लेना होता है तो लोग अजीब अजीब तरह से षडयंत्र रचते हैं और बेगुनाह आदमी को फंसाते हैं, किसी के घर में बन्दूक रख दी जाती है और किसी के घर में और कोई दूसरी नाजायज चीज फेंक दी जाती है और आप जानते हैं कि उस आदमी का अपने को बेगुनाह साबित करना कितना कठिन हो जाता है, मैं पूछना चाहता हूँ कि क्या इतनी बड़ी सरकार उस आदमी के खिलाफ जिसके खिलाफ मुकदमा चला है क्या यह साबित नहीं कर सकती कि अमुक आदमी ने वायर चुराया है, क्या सरकार के पास इतनी ताकत नहीं या सरकारी अहलकार इतने योग्य नहीं कि वे यह साबित कर सकें कि यह माल जो

[बाबू मनारायण सिंह]

उस के पास से बरामद हुआ है, उसका नहीं है और यह सरकार के अमुक मुहकमे का है और वह आदमी चोरी का खतावार है और उसको सजा मिलनी चाहिये ? इस बिल से तो मैं यही मतलब निकालूंगा कि सरकारी कमचारी ऐसा साबित करने की योग्यता नहीं रखते, इसीलिये निर्दोष आदमी पर यह दायित्व डालते हैं कि वह अपने को निर्दोष साबित करे और ऐसा करने में शक नहीं कि सरकार द्वारा एक बहुत बड़े सिद्धान्त का खून हो रहा है ।

4 P. M.

मेरे दोस्त श्री भागव और उनकी पार्टी आज बहुमत में हैं, और मेरे दोस्त को अपनी पार्टी का समर्थन करना ही पड़ता है । लेकिन कभी कभी यह भी देखते हैं कि उस दल में भी ऐसे लोग हैं जो कि अपने दिल की बात सबाई से रख देते हैं जैसे कि अभी हमारे भाई टक चन्द जी ने कहा । उन्होंने बहुत सुन्दर तरीके से कहा, लेकिन ठाकुर दास जी तो गड़बड़ा ही गये । जो विरोधी दल है वह अगर कुछ बहस करे तो दूसरी बात है, लेकिन कांग्रेस के सदस्य भी, जो बहुमत में हैं, व भी बोलते हैं कि यह ठीक बात नहीं है, फिर भी यह पास हो जाता है । हां तो मंत्री कोई चीज लाकर रख दें, वह पास हो जाता है, चाहे बहुमत वाले हों चाहे विरोधी लोग हों और चाहे वहाँ कुछ भी कहते रहें । मैं तो कहता हूँ कि ऐसे ऐसे नियमों को, सभापति जी, आप यहां न आने दीजिये । मैं आपसे कहूंगा कि चेअर को, सभापति को, सब अख्तियार है और उनको देखना चाहिये कि जायज चीज यहां पर आये, नाजायज चीज न आये ।

पंडित ठाकुर दास भागव : किस अधिकार से या कानून से आप ऐसा कहते हैं ।

बाबू रामनारायण सिंह : जिस के हाथ में अधिकार, फैसला करने का होता है वह कर ही लेता है । इस में कोई शक नहीं कि इस हाउस का जो अधिकार है उसकी रक्षा करने वाले आप ही हैं, यह एक सीधा सा कानून है । यह कैसी बात है कि मिनिस्टर यहां पर जो चाहें लायें और पास करा लें । इस वास्ते मैं मंत्री महोदय से भी कहूंगा कि यह देखते हुये कि कांग्रेस के सदस्य, उनके पक्षपाती लोग, भी उनके खिलाफ बोल रहे हैं तो उनको यह विचार करना चाहिये । जब कहीं तार की चोरी होगी तो उन में इतनी योग्यता होनी चाहिये कि वह यह साबित करें कि अमुक व्यक्ति ने चोरी की है उसकी जायदाद वह नहीं है, वह जायदाद उनकी है । अगर उनमें इतना साबित करने की ताकत नहीं है तो सरकार को पद से हट भी जाना चाहिये ।

Some Hon. Members: Sir, the time is over.

Mr. Deputy-Speaker: I shall extend the time for the Private Members' Resolutions, by whatever time we exceed the time allotted for Government business.

बाबू रामनारायण सिंह : सभापति महोदय, मैं अब खत्म कर रहा हूँ, इतना ही कह करके कि ऐसे ऐसे नियम या विधायक पास होने से पार्लियामेंट भी बदनाम होती है, सरकार तो बदनाम है ही . . .

संवरण मंत्री (श्री जगजीवन राम) : आप भी बहुत पास कर चुके हैं ।

बाबू रामनारायण सिंह : इस वास्ते मैं अर्ज करूंगा कि जिनके हाथ में सरकार है, जिनके हाथ में बहुमत है वह कम से कम पार्लियामेंट की इज्जत की तो रक्षा करें अगर और कुछ नहीं कर सकते हैं ।

The Minister of Parliamentary Affairs (Shri Satya Narayan Sinha): I beg to move:

"That the question be now put."

Mr. Deputy-Speaker: The hon. Minister.

Shri Raj Bahadur: Mr. Deputy Speaker, Sir, I think a full and complete answer to the points raised in the course of the debate has been given by my hon. friend Pandit Thakur Das Bhargava. I can assure hon. Members that there is no question of breaking or violating any recognised principles of jurisprudence. The question is that the gauges of the wires have to be proved first. It is also well-known that wire of these particular gauges is not available anywhere, excepting with the Posts and Telegraphs Department. Therefore, if anybody is found to be in possession of telegraph wire of these gauges, the onus lies on the accused to prove that the wire has come into his possession lawfully.

With these few remarks, I beg to move:

"That the Bill to amend the Telegraph Wires (Unlawful Possession) Act, 1950, be taken into consideration."

Mr. Deputy-Speaker: The question is:

"That the Bill to amend the Telegraph Wires (Unlawful Possession) Act, 1950, be taken into consideration."

The motion was adopted.

Clauses 2 to 5 were added to the Bill.

Clause 1. —(*Short title*)

Amendment made:

In page 1, line 3, for "1952" substitute "1953".

—[*Shri Raj Bahadur*]

Mr. Deputy-Speaker: The question is:

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

The motion was adopted.

Clause 1, as amended, was added to the Bill.

The Title and the Enacting Formula were added to the Bill.

Shri Raj Bahadur: I beg to move:

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

Mr. Deputy-Speaker: The question is:

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

The motion was adopted.

RESOLUTION RE: UNEMPLOYMENT

Mr. Deputy-Speaker: The House will now proceed with the further discussion of the following Resolution moved by Shri A. K. Gopalan, on the 22nd August 1953, as also the various amendments moved thereto:

"This House is of opinion that immediate steps be taken to arrest the growth of unemployment in the country and to provide relief for the unemployed."

We have exceeded the time allotted for Government business by five minutes, and I shall therefore extend the time for the Resolution, by five minutes.

Shri T. K. Chaudhuri (Berhampore) May I ask how long we shall carry on with this Resolution?

Mr. Deputy-Speaker: I do not know. As long as the House wants it, we shall go on with this Resolution.

Shri S. S. More (Sholapur): That is the correct reply.

Shri H. N. Mukerjee (Calcutta North-East): Last time, there was a suggestion to begin with, that we might close the discussion at 6 P.M. but then when it was found that two of the hon. Ministers were to speak, the House decided that the discussion should be continued for another day or so. That being so,