

PARLIAMENTARY DEBATES

(Part II—Proceedings other than Questions and Answers)

OFFICIAL REPORT

2093

2094

HOUSE OF THE PEOPLE

Saturday, 13th March, 1954

The House met at One of the Clock

[MR. SPEAKER in the Chair]

QUESTIONS AND ANSWERS

(No Questions: Part I not published.)

MOTION FOR ADJOURNMENT

Mr. Speaker: The hon. Member, Shri Gopalan, has sent to me notice of an adjournment motion. I think he better see me first in the Chamber, and then I will decide.

PRESS (OBJECTIONABLE MATTER)
AMENDMENT BILL—contd.Clause 3.—(Amendment of section
2)—contd.

Mr. Speaker: The House will now take up the further consideration of the Bill to amend the Press (Objectionable Matter) Act, 1951.

Yesterday, I believe clause 3 was under consideration, and Mr. Sadhan Gupta was on his legs. Before I call upon Mr. Gupta, I must invite the attention of the House to the timetable. There is only half an hour left for all the remaining stages of the Bill. There are a number of amendments to clause 4. If they like, hon.

Members may make a selection.

24 P.S.D.

Shri N. C. Chatterjee (Hooghly): Yes, we shall make a selection.

Mr. Speaker: We shall see when we come to clause 4. All the amendments to clause 3 have been disposed of yesterday. Mr. Sadhan Gupta may continue his speech.

Shri Sadhan Gupta (Calcutta South-East): Yesterday, I was pointing out how through a small amendment a great change had been effected in the law, by making the penalty for printing matters without the name of the printer and the publisher from undeclared presses more drastic than under the original Act. I said that that should not be done without taking the opinion of the House. I can well imagine the Home Minister throwing up his hands in holy horror and saying, "Do you want undeclared presses to continue? Do you want things to be printed and published without the names of the printer and the publisher?" Even assuming that it is very wrong, my point is not that it is being penalised but my point is that it is being penalised so drastically without giving the House an opportunity to discuss the matter, without giving the House the reason why so drastic a penalty should be imposed.

Mr. Speaker: I shall now put clause 3 to the House.

The question is:

"That clause 3 stand part of the Bill."

The motion was adopted.

Clause 3 was added to the Bill.

Clause 4.—(Amendment of section 20)

Mr. Speaker: What are the amendments to be moved?

The Minister of Home Affairs and States (Dr. Katju): I have to move an amendment.

Mr. Speaker: I am asking other hon. Members to mention their amendments. After that, I shall come to Government's amendments. If there is time, they will be moved; otherwise, they will be taken as moved and put to vote without any argument.

Shri N. C. Chatterjee: I should like to move No. 6.

Shri Vallatharas (Pudukkottai): I am not moving my amendments.

Mr. Speaker: Any other hon. Member? I find none. So, apart from Government's amendments, only No. 6 is going to be moved.

Shri N. C. Chatterjee: I beg to move:

(i) In page 1, omit lines 18 to 26; and

(ii) In page 2, omit lines 1 and 2.

In clause 4, what the hon. Home Minister is doing is this. He is taking away some function which was consciously given to the jury by Shri C. Rajagopalachari. Rajaji—and I submit, rightly—conferred this right upon the jury. He gave the jury the right and the duty to decide whether some matter which is placed before the court is objectionable matter or not, and secondly, he conferred on the jury the power and the duty to decide whether in the circumstances of the case, the security demanded by the Government should be imposed or not. That was deliberately and consciously given to the jury by the then Home Minister, and I submit that that power should not be taken away. My learned friend said yes-

terday "This is something very extraordinary". It is not something very extraordinary. Let me read to you from Halsbury's *Laws of England*, Vol. 20, page 508, paragraph 625.

"General Principles—Damages, the province of the jury.—The amount of damage is peculiarly the province of the jury, and the judge himself must not decide the amount."

This is an article contributed by the late Lord Chief Justice of England, Lord Hewart. He was not merely Lord Chief Justice of England, but he was also a journalist of high position. He was the editor of the paper *India*, which was a Congress paper functioning in England. He was also associated with the British Committee of the Congress in his younger days when he was a leading member of the Bar.

That is the English law on the subject. The quantum of damages to be imposed should be decided not by the judge but by the jury and that is the principle which was invoked by Shri C. Rajagopalachari and that was incorporated in this Bill.

One case my hon. friend mentioned yesterday was about some publication in Delhi a thing which was very regrettable and which everybody should condemn. It was about some lady who was married to an ambassador posted to some country by the Indian Government. My hon. friend said that the jury was of the opinion that the matter printed was objectionable, but no action need be taken. Upon that, Pandit Balkrishna Sharma shouted 'shame, shame; the jury behaved shamelessly'. I have the greatest respect for that jury. Unfortunately, my hon. friend has not given the House all the facts. I am not saying he was consciously misleading the House, but the fact is that it was only half truth. What happened was this. The jury consisted of the most eminent men available in this country—Mr. Dharampal Gupta, Editor, *Tej* weekly, was

the foreman of the jury; Lala Sham Nath, President Delhi Municipal Committee, Mr. K. Shankar Pillai, Editor, *Shankar's Weekly*, Mr. Aziz Hasan Baqai, Editor, *Peeshwa*, Maulana Farqit, Editor, *Aljamait*, were the gentlemen who comprised the jury. What happened was this. Under section 16 of the Act, it was decided that it was objectionable matter and the complaint specified the amount of security which, in the opinion of the State Government, should be demanded. The State Government here demanded a preposterous security of Rs. 30,000. Even during the worst days of British imperialism when the Indian National movement was very strong, nobody had ever heard of such a high amount of security being demanded...

Pandit Thakur Das Bhargava (Gurgaon): The limit was Rs. 10,000.

Shri N. C. Chatterjee: Even with respect to the *Amrit Bazar Patrika*, which was the worst persecuted paper by the Britishers, only Rs. 5,000 was demanded as security, but here the State Government demanded Rs. 30,000. The jury, consisting of esteemable and responsible men, condemned the offence, but they found that it was absolutely impossible to inflict such a ridiculously heavy penalty which was out of proportion to the offence which was alleged, and they, therefore, said "There is no power to inflict any other penalty and we cannot inflict that penalty as recommended by you. We, therefore, administer a stern warning against the paper, and if the offence is repeated, the paper will be strongly dealt with." That is what has happened. Is it a justification for taking away that power and function of the jury which had been consciously given to them by Shri Rajagopalachari and the then Parliament of India? I submit, not. If you want to condemn the jury for this kind of dereliction of duty, then you should condemn the Sessions Judge also and take away the power from the Judiciary.

Sir, under section 21, sub-section (2) of this Act—

"If in any such enquiry the Sessions Judge disagrees with the opinion of the jurors and is of opinion that it is necessary for the ends of justice to submit the case to the High Court, he shall submit the case accordingly recording the grounds for his opinion."

The Sessions Judge in this case is a judge who is held in high esteem, a judge of experience. He has been a distinguished member of the legal profession and he did not differ. He accepted the verdict. He did not think the verdict was perverse, or wrong and did not refer the case to the High Court.

I am told—I do not know how far it is correct—after the Prime Minister in one of his speeches referred to it that somebody had discovered that in the wonderful bureaucratic administrative machinery that this Rs. 30,000 was a mistake: it ought to have been Rs. 3,000! The Government Department was so slack and inefficient, they made it Rs. 30,000 and put up a complaint for inflicting this security of Rs. 30,000. Instead of sacking that man, instead of going against him, the Minister is going against the jury. I submit this is a very very poor excuse and this is no justification for making a change.

If you want to continue the Act, for Heaven's sake, continue it for another year, or even a couple of years if you like; but do not tamper with the Act. In response to our appeal and Pandit Thakur Das Bhargava's appeal, the Home Minister has said that he would bring forward a comprehensive Bill. When he does so, we shall discuss the matter. But I would appeal to him not to make any radical changes now taking away the power and function of the jury, and not to interfere with the privileges which have been deliberately given to the pressmen who will function on the jury in this case under Rajaji's Act.

Mr. Speaker: Amendment moved:

(i) In page 1, omit lines 18 to 26; and

(ii) In page 2, omit lines 1 and 2.

Pandit Thakur Das Bhargava rose

Mr. Speaker: There is no time.

Pandit Thakur Das Bhargava: I am submitting for your consideration one aspect of the case. I realise that when the Business Advisory Committee has allotted twelve hours for this Bill, we should abide by it. But you yourself know that in regard to Bills there was no time-limit before. This is one of the most important Bills and now we are coming to the clause relating to appeal. I have got a good many grounds to offer why appeal should not be allowed. When the new Bill comes this will be cited as a precedent. This Bill has never gone to Select Committee or any other body. This is a new provision and I want to be heard on this point. I also suggest that you may extend the time.

Mr. Speaker: I am sorry it is not possible, because hon. Members if they wanted extension could have curtailed the general discussion. We had made specific allotment of time; eight hours for the general discussion, three hours for clause by clause stage. I am afraid the general discussion was extended by at least two hours.

So, we have to adjust the whole thing within time. The other two Bills require to be passed immediately and could not be postponed in view of the fact that they have to be passed within a certain time. The Business Advisory Committee had taken that into consideration. I quite appreciate the difficulties of the hon. Members but when the House has got an amount of business, there has to be some relation to the length of the speeches also.

Dr. Lanka Sundaram (Visakhapatnam): Day before yesterday, at two

minutes past six, I raised this question referring to the time-table you had set for this Bill. I did not have any remedy from the Chair. (Interruptions). The first stage should have been completed by that time, but it was continued. I stood up and brought this to the notice of the Chair but we had no remedy at all. Now, the third reading will have to be there, the clauses will have to be disposed of.

Pandit Thakur Das Bhargava: As a matter of fact, those who spoke on the first reading and the second reading are not a group by themselves. Each one stands for himself and the Chair when it apportions the time for the different stages may stick to the programme and not allow any other person to speak. So far as clauses are concerned, they constitute the operative part and thus the most important part of the Bill and if you do not give us sufficient time I am afraid we will not be able to do our duty and do justice to this Bill which is one of the most important Bills. (Interruptions.)

Mr. Speaker: Let us not spend time on that; there is no alternative for that. Are the hon. Members prepared to agree to the curtailment of time for the other Bills?

Pandit Thakur Das Bhargava: I have no objection.

Shri N. C. Chatterjee: I have no objection.

Mr. Speaker: Then let us see the time-table for the other Bills.

Pandit Thakur Das Bhargava: In regard to the other Bills, we do not require three hours; I have seen the Bills.

Mr. Speaker: I want to be sure so that it could be pushed through. Will one hour be sufficient for the Transfer of Evacuee Deposits Bill?

Shri Gidwani (Thana): Two hours.

Mr. Speaker: Are the hon. Members agreeable? If you have two hours for this, you can have one hour from that. I am prepared to go further but there should be no further request for any time and the speeches must be strictly limited.

Pandit Thakur Das Bhargava: I will be as brief as possible.

Dr. Lanka Sundaram: Please apportion some time for the third reading.

An Hon. Member: One hour includes that also.

Mr. Speaker: I do not think that the third reading will take any long time.

An Hon. Member: May we know if all the three Bills will be put through today?

Dr. Katju: I have no desire to have the discussion curtailed—they can discuss for as long a time as possible. But on clause 4 every hon. Member who spoke on the general discussion has dealt at length and has advanced all that has to be said.

Mr. Speaker: Let me fix up the time. What time does he want? He must leave some time to the hon. Minister also for replying.

Pandit Thakur Das Bhargava: I will be extremely brief in regard to clauses 4 and 5.

Mr. Speaker: I want to know the time.

Shri N. C. Chatterjee: Half an hour or fifteen minutes.

Mr. Speaker: Half an hour for clauses 4, 5 and 6 and fifteen minutes for the Minister; that means three-fourths of an hour and then half an hour will remain for the third reading stage on that basis.

Dr. Katju: There are some amendments, but I will not take a long time.

Mr. Speaker: I shall put them through; if any Member has to speak, he will not speak but he may vote against.

Pandit Thakur Das Bhargava: This is my humble submission in regard to this particular amendment. As has been stated by Shri Chatterjee, it is quite true that you must look at the Bill as a whole and when this was the intention of the hon. Minister who was the author of this Bill that all the matters should be referred to the jury, now it is too much to expect us to agree that the functions of the jury and the judge should be divided as in ordinary cases. There is a very great amount of difference between this kind of cases and the ordinary cases. This is not realised by the hon. Minister in charge of this Bill. In regard to such cases, the real point at issue is not: when an offence has been committed. In all these preventive proceedings, the offence is not committed and the person who is called accused is not an accused; there is no conviction, there is no acquittal. (Interruption by Dr. Katju).

Mr. Speaker: Let him proceed.

Pandit Thakur Das Bhargava: If he would just curtail some amount of his portion out of the allotted time and put in his objections. I shall answer them. In these security cases, therefore, a person is absolutely innocent. And even after an order is passed there is no conviction. Section 75 of the Penal Code will never apply here. The initial or basic mistake committed by the hon. Minister is that he regards these cases as a trial. There is no question of acquittal, or of an appealable order being passed—but right of appeal is never inherent. It is a creation of the statute and orders have been made appealable by a certain section of this Act. In ordinary cases what happens? We know the definition of the offence. We know what happens under section 302, or 304(2) or (1), even under section 325 and section 323. They are defined by law. The judge has to apportion the sentence to the offence when one is proved to have been committed. This is a matter of law. In these preventive provisions there

[Pandit Thakur Das Bhargava]

are two questions of fact, firstly whether objectionable matter is there and, secondly, even if it is there the judge is not bound to ask for security. In offence cases he is bound to convict a man if the offence is proved. Here he has to decide a very important question, whether there are sufficient grounds as a result of which, in spite of the fact that a person has disseminated such and such matter, he should use his discretion and decide whether, in view of antecedents, knowledge, etc. of the respondent a security should be demanded or not. This is a mixed question of law and fact, not purely law or purely fact. Therefore this has been allowed to the jury.

What motivated the author of the Bill was that he wanted to evolve a certain kind of professional ethics in which these journalistic gentlemen were to be given charge of the whole case and they had to decide whether the circumstances were sufficient in which security should be demanded. Therefore in the present case the powers given by the author of the Bill should not be taken away by his successor, who was not present at that time and in whose mind the whole picture is not present. What he wanted, the hon. Minister does not know. He himself says that he does not know why two years were fixed. When he has not gone through all those features, I do not think he is entitled to make this kind of amendment in the law.

What would happen? The hon. Minister takes his cue from sections 417 and 418 of the Criminal Procedure Code. Under section 418 much less powers are given in an appeal of this nature when the matter goes to the High Court, than in ordinary cases. In ordinary cases it is only on a point of law, when the jury is there, that the appeal is taken. In this Act the appellate court also has been equipped with full powers. They can pass any order, on fact or law. This is what the Act itself says. Thus this Act was

framed as a special Act with special provisions.

Under all these circumstances I would beg the hon. Minister not to press his amendment. Because, according to me, this has not gone to Select Committee or to the Commission. It has gone nowhere. It has been sprung on us by surprise. In an extension Bill these controversial matters should not come in. I would therefore appeal to the hon. Minister even at this stage to take away all his amendments and, after it has gone to Select Committee or to the Commission, to make such drastic changes in the law of this country.

Shri Dhulekar (Jhansi Dist.--South): How is it surprise? We all know it.

Dr. Katju: I confess to a sense of surprise at the arguments advanced by my hon. friend, Mr. Chatterjee. He referred you to a passage from Halsbury's Laws of England and referred you to the procedure in civil cases. I ask him if there is a single precedent in that fat book of his to show that that procedure applies to criminal cases. We know that in a civil case it is a claim. Suppose it is a defamation case and I claim Rs. 200,000 just as I claim on a promissory note. In that case the jury will pronounce judgment on two questions: one, as to whether there is any defamation at all, and secondly, if there is, how much is the plaintiff entitled to in terms of pounds, shillings and pence or rupees, annas and pies. My hon. friend reads that passage out to you and says that the jury has got the power to pronounce the quantum of damages. Let us be clear about it. I say with confidence that in a criminal matter, it is for the judge, when the jury has brought in a verdict of guilty, to say whether he lets off the accused with a warning, or what punishment should be awarded to him. Speaking as a lawyer with a little knowledge, that

is the fact as I understand it. This is something extraordinary.

The second thing is this. He referred to that abominable case—I do not want to discuss the case, either of the press, the jury or the judge. He said that when the national struggle was at its height nobody ever demanded Rs. 30,000. What has that got to do with the national struggle? Here, the abominable note was published about a decent man who has got his wife and children. I say, this was a case where a sum of a lakh of rupees should have been demanded and he is speaking about thirty thousand!

Shri N. C. Chatterjee: Why not? It is for the Sessions Judge.

Dr. Katju: That is a different matter. Appeals against Sessions Judges are done everywhere. I do not want to discuss the judiciary here. My hon. friend said that the judge can give the order for security of Rs. 30,000 or nothing. I think it must have been a sort of oversight. Here is section 4 in regard to the keeper of the press, which says:

“the Sessions Judge shall, by order in writing, direct the keeper of the press to deposit as security within twenty-one days from the date of the order, such amount as the Sessions Judge may think fit to require.....”

If the Government in its complaint has asked for Rs. 30,000 it is open to the Sessions Judge to say ‘No’, and allow only three thousand or even three hundred.

Shri N. C. Chatterjee: May I interrupt the hon. Minister? The jury has no such power. Would you kindly read section 20, which says:

“If in any inquiry before a Sessions Judge under this Act, the respondent claims to have the matter determined with the aid of a jury.....”

Dr. Katju: We are coming to that, as to what the Sessions Judge can do. Now coming to section 4, it again says:

“Provided that if, having regard to all the circumstances, the Sessions Judge is satisfied that the requirements of the case will be met by a warning, he may, instead of demanding security, record such warning.”

This is in relation to the keeper of the press, and the same provision we find in paragraph 7. I submit that I have got a list of cases here where over and over again the Sessions Judges have demanded lesser security. I am not talking in any party spirit. I say that it is putting much too great a burden upon the jury, whatever my hon. elder, whom I admire and at whose feet I want to sit, may have said about this matter. We have got some judgment of our own. It is too great a burden to be put upon the jury to ask them to say what punishment should be inflicted.

Pandit Thakur Das Bhargava: In prevention cases there is no punishment.

Dr. Katju: It starts as a criminal proceeding, it is governed by the Criminal Procedure Code and it results in an order—call it whatever you like. Then it has an appeal to the High Court. My hon. friend says it is a security matter. If the objectionable matter has dealt with what you may call political comments, then I can understand something like this. I satisfied the House yesterday. Every clause of section 3 can be referred to a particular section in the Penal Code and the.....

Pandit Thakur Das Bhargava: It is absolutely wrong.

Dr. Katju:...punishment awarded there begins with a sentence of death and ends with a sentence of imprisonment in every case.

Pandit Thakur Das Bhargava: Question.

Dr. Katju: My hon. friend now says that these are not accused; I do not know, these are undefined persons. They may say anything they like against any man and if security is demanded, if they are not dealt with under the Indian Penal Code and punished with imprisonment, they are entitled to all sorts of facilities, amenities, and indulgences. It would be a discrimination in favour of this jury and no other jury. I cannot possibly subscribe to this proposition. I think it would be fatal for me to do so. When that Bill comes,—it is not a question of this Bill becoming a precedent,—when we have the whole thing before us, if I may have my own way, I shall make a proposal before the House abolishing the blessed Press (Objectionable Matter) Act altogether and put it in the Penal Code, and properly punish the people who do these nasty things. I repeat it again and again that this is a merciful Act. This is a generous Act.

Pandit Thakur Das Bhargava: Absolutely ineffective.

Shri N. C. Chatterjee: Useless and ineffective.

Dr. Katju: It does a great favour to the Press. That is my proposition before the House.

I do not know whether the second proposition you are dealing with or not: about appeal. I do not want to detain the House unnecessarily. I dealt with it yesterday. We are all governed by the same Code. Why should there be any distinction between a man who is undergoing a trial for murder and a gentleman who has been asked to deposit a security of Rs. 300? The Rs. 300 gentleman says, I have got a judgment in my

favour from the Sessions Judge, I am off. The poor man who has been tried for murder, is acquitted by the Sessions Court. There is an appeal by the Government and he is ordered to be hanged and he is hanged.

Pandit Thakur Das Bhargava: My hon. friend is speaking on clause 5.

Dr. Katju: What is this interference? Is this a point or order? Both these are contrary to the whole conception of the criminal jurisprudence as it is obtaining in India. I am not opposing this simply for opposition's sake. If there had been, if my hon. friends will permit me to say so, any reason behind it, any force behind it, I would have been the first person to accept this amendment.

Mr. Speaker: I put the amendment to the vote of the House.

The question is:

“(i) In page 1, omit lines 18 to 26; and -

(ii) In page 2, omit lines 1 and 2.”

The motion was negatived.

Mr. Speaker: Amendment No. 38.

Dr. Katju: If we proceed upon a district-wise basis to select the jury, in many districts, competent persons are not available. Therefore, Government has decided, in the interests of the profession, if I may say so, that we may have a list made on the State basis. This was stated in the original Bill as placed before the House. Then, the question arose how it should be published, how it should be prepared and how distributed. That matter has been gone into at length and this amendment puts before you the procedure by which the State-wise list should be prepared and circulated among all the districts. That is the object of the amendment.

Amendment made:

In page 1, for lines 15 to 17 substitute—

'(a) for sub-sections (3) and (4), the following sub-sections shall be substituted, namely:—

"(3) Such Officer as may be appointed by the State Government in this behalf shall, consistently with the provisions contained in sections 319 and 320 of the Code in so far as they may be applicable thereto, prepare and make out in alphabetical order a list for the entire State of persons residing within the State, who by reason of their journalistic experience or of their connection with printing presses or newspapers or of their experience in public affairs are qualified to serve as jurors, and the list shall contain the name, the place of residence and occupation of every such person.

(4) The list so prepared shall be published by the Officer in such manner as he may think fit for the purpose of inviting objections thereto, whether orally or in writing, and a copy of the list as finally revised by him shall be sent to each of the Sessions Judges within the State and shall also be published in the Official Gazette of the State."

—[Dr. Katju]

Further amendment made:

In page 2, after line 2 add—

"(a) In sub-section (5), for the words and letters, 'the provisions of the said parts C, E and F shall apply to all inquiries under this section, and the provisions of the said part K shall apply to the preparation and revision of lists of jurors under this section', the words 'the provisions of the said parts shall apply to inquiries under this section' shall be substituted."

—[Dr. Katju]

Mr. Speaker: The Question is

"That clause 4, as amended, stand part of the Bill."

The motion was adopted.

Clause 4, as amended, was added to the Bill.

Clause 5.—(Amendment of section 23)

Mr. Speaker: Are any amendments to clause 5 being moved?

Pandit Thakur Das Bhargava: We want to speak on clause 5.

Mr. Speaker: So, I will put it separately. But are there any amendments?

Shri K. C. Sodhia (Sagar): I beg to move:

In page 2, line 9,—

(i) omit "The competent authority or"; and

(ii) omit "other".

I have carefully heard the speech of the hon. Home Minister, but I am not convinced. He said that the Bill is a merciful Bill. I want that it should be merciful and also that it should not smack of vindictiveness. May I draw the attention of the House to section 23 of the original Act in this connection? It says that any person against whom an order has been made by the Sessions Judge can appeal to the High Court. That is, Government have not taken to themselves the right of appeal in that section. That Bill was moved by Shri Rajagopalachari who is one of our best politicians and statesmen. It does not appear to me that this provision did not attract his attention. He let it go simply because he did not want to have it.

In the trial by jury, when the jurors say that the accused is not guilty if the Sessions Judge does not accept their verdict, then he can sentence the accused. But when both the Sessions Judge and the jury are unanimous in their opinion, then the case is lost and the accused is set free. My submission is that in view of the amendments just now put for-

[Shri K. C. Sodhia]

ward by the Home Minister and accepted by the House, responsible persons of the profession will be selected as jurors from all over the State. These jurors will be just to the case and say whether on facts the accused is guilty or not. If the Sessions Judge does not accept their judgment, he can just refer the matter to the High Court and the case is not lost against the Government. When the jurors who themselves, as the hon. Home Minister has said, are men of responsibility in the profession return a verdict that on facts the person is not guilty and the Sessions Judge also concurs with their judgment, then only the case can be lost and the opportunity arise for Government to go in for an appeal. I say that in a matter like this when we are dealing with the Press, Government should not be vindictive. When five or seven persons of the jury who are responsible persons in the profession, and the Sessions Judge come to the same conclusion and discharge the accused, Government should take that judgment and that order of the Sessions Judge in a sportsmanlike manner. I do not concede the point that all are on an equal footing, and in every case Government should have the right of appeal. I submit to the hon. Home Minister that Government should not be vindictive, and they should not prefer an appeal against the accused, by pursuing the matter after the professional people who have been selected by an officer of the State, and the Sessions Judge, come to the same conclusion and let off the accused.

I would therefore submit that my amendment is a very reasonable one, and I hope the hon. Minister will see his way to accept it.

Mr. Speaker: Amendment moved:

In page 2, line 9,—

- (i) omit "The competent authority or"; and
- (ii) omit "other".

Pandit Thakur Das Bhargava rose —

Mr. Speaker: I think I should call upon Shri Vallatharas, because he has an amendment in his name, which, though not exactly the same as Shri K. C. Sodhia's, still touches very nearly the same point.

Shri Vallatharas: I beg to move:

In page 2, line 9, for "The competent authority or any other person" substitute "Any of the parties to the inquiry".

My amendment is not the same as Shri K. C. Sodhia's, but it regularly touches a totally different matter altogether. Once the principle is conceded, I do not want to enter into the details. But the question is who has the right to go to a higher court, whether it is the parties to the proceedings or any person against whom a remark is made in the course of the judgment. Supposing A and B are parties to a suit. A is the competent authority, B is the press, and in the course of the judgment or order, there is some remark made against C or D, the question is whether that C or D will be entitled to go to an appellate court, because he is also a person aggrieved by some observation or remark in the order or the judgment. In my humble opinion, that sort of liberty should not be given to any person. Only parties to the proceedings are entitled to go to the higher court, to get their grievances redressed. Supposing a remark is made against a third person, either it may be an *obiter dictum* or *ultra vires* and if there is anything objectionable, the question whether it should be expunged or not is quite another controversial matter. There are so many cases in which the expunging of certain portions of a judgment or an order has been called into question, and great difficulties have been felt. But in this measure, which serves only a tentative purpose, I would like to submit that the clearer meaning should be put in.

No person other than the parties to the suit, viz. the competent authority, and the defendant or the accused, whoever it might be, should be entitled to go to the appellate court, whatever might be the nature of the remark made against him in the course of the judgment or the order, because a third person cannot be subjected to punishment, either in regard to the quantum of damages or forfeiture or whatever else it may be, there is no relief claimed against a third person.

Under these circumstances, I should suggest that the right to go to a higher court must be restricted only to the parties concerned.

Mr. Speaker: Amendment moved:

In page 2, line 9, for "The competent authority or any other person" substitute "Any of the parties to the inquiry".

Pandit Thakur Das Bhargava: In relation to this amendment, viz. that the right of appeal should be given to Government, I submitted one point yesterday. In addition to that, I would like to offer some other remarks today.

If the amendment of my hon. friend Shri Vallatharas is accepted, the real intention of the framers of the Bill would be frustrated. When the original Bill was being discussed, I brought it to the notice of Shri Rajagopalachari, the then Home Minister, that though a press worth Rs. 1 lakh or Rs. 5 lakhs or Rs. 10 lakhs is forfeited, still, the owner of the press was not a party to the proceedings. I also submitted that so far as article 19 (1) of the Constitution was concerned, the right to property was included therein, but a person who is the owner of the press and who is not a party to the proceedings has got no right to appeal.

The hon. Mr. Datar when he took part in the debate said he wanted to punish the owners of the presses, though they were not parties. The position of the keeper of the press is

that of the respondent. That is the real meaning of this Bill. I raised this point but it was not accepted. Therefore, it offends against article 19(1), but that is not part of the argument at this spot that I want to place before the House. This is only in reference to the speech of Shri Vallatharas. We have accepted extension of the Act for two years. I know the Act is unconstitutional, but we have accepted it. What I am submitting is that this is entirely a new provision which my hon. friend says is a minor amendment. I will just give some reasons why this 'minor' amendment, according to him, should not be accepted. In the first place, as you yourself know much better than I do, in the Criminal Procedure Code, section 417 is really a provision which is not to be found in the laws of any other country, except India. I read out yesterday from an annotated book and that point has not been replied to.

The second point is this. Kindly read section 417, the basis on which my hon. friend wants to proceed, and apply section 417 to this case and you will find that section 417 cannot apply. It only applies to orders against acquittal. In this case, you read through the whole Bill. There is no order of acquittal at all and there can be none, because no charge is framed. There is only an inquiry into certain allegations. That is the basis. Therefore, it is not an extension of section 417; it is merely an extension of something which does not exist. Therefore, section 417 does not apply. Then you have a long list of sections. Section 107 is there. There is section 108, section 109 and section 110. These are all preventive sections in the Criminal Procedure Code. Now the right is given to a person against whom an order for security is passed, but no right is given in the whole of the Criminal Procedure Code against an order not demanding security. Here there will be an order not demanding security. Is this appealable today? My friend says it is bound by the Criminal Procedure Code. When the Criminal Procedure Code for the

[Pandit Thakur Das Bhargava]

last so many years during which it has been in operation did not provide an appeal of this nature in regard to a preventive provision, I would beg of him to kindly consider that this is nothing but a preventive provision.

Under section 18 of the Act a man is not acquitted. The accused is called the respondent. You call this an inquiry and this is nothing but an inquiry. As a matter of fact, the real difficulty is this. My friend thinks it is a punitive measure. All preventive measures are not punitive. It ought not to be made punitive. If it is not punitive, it is a preventive measure, and I challenge my friend to produce any legal book in the world where an appeal of this nature is provided. No appeal can be provided. I will refer him to the Preventive Detention Act. What happened? Under the Preventive Detention Act also, as a matter of fact, security is taken by committing the man to prison. What happens? You appoint an advisory council. The advisory council goes through your allegations and after going through the allegations, it gives advice. That advice must be obeyed, according to the provision in the Preventive Detention Act. No appeal is provided against that advice. That is also a preventive measure. The hon. Minister himself was in charge of that Bill. He never suggested that there also there should be a provision put in like this. Therefore, I submit that so far as the analogy is concerned, it does not hold good. In 1910 and 1931 Acts such appeals by Government were never provided.

Then again, you will be pleased to know that in all preventive provisions there is one specific matter to which I would like to draw your attention. In Preventive measures, the balance is to be taken between the liberty of the individual who has not committed any offence, for whom a repetition of offence is provided against by the law and the social interests of the society which seeks to curb that liberty. An

accused person, when he has committed an offence, is subject to law. So far as the preventive provision is concerned, a man is only prevented from committing any offence in his own interest as well as in the interest of society. The man's innate, divine nature is there, and there is *locus paenitentiae*. He may not commit the offence. Therefore, when you are putting in a provision against him, you are doing it in the interest of society. The balance should be there. The balance is that he should not be proceeded against vindictively. What would happen when the Sessions Judge disagrees with a particular jury? The papers go to the High Court and then the High Court can demand security. This is a preventive provision. If the jury goes wrong and the judge is right, then the High Court can set the matter right. But, when we have passed clause 4, I think, the judge is powerless. When the objectionable matter has been decided by the jury, the second matter does not come in, whether any security has to be taken from him or not. But, if the jury is right, then there is a provision. But if the jury and the judge both go wrong, there is no provision and my friends want to have a provision. My humble submission is, that in matters like this, no appeal should be provided for. It is absolutely wrong to provide for an appeal.

There are also other reasons, but, I am sorry, I cannot deal with them at this stage, because there is no time.

Shri Vallatharas: One point, Sir. The hon. Member was involved in the earlier debate

Mr. Speaker: Order, order. Apart from the hon. Member having a second speech, we have to finish the Bill by 2-30. I must give some time to the hon. Minister to reply and also for the third reading. If the House wishes to go up to 2-30 with this amendment, I have no objection. The

whole thing will have to be finished by 2-30.

Shri U. M. Trivedi (Chittor): It is a very interesting point.

Mr. Speaker: It may be a very interesting point, but the time of the House is equally precious.

Shri Sadhan Gupta: I am moving my amendment and I will make a speech of nine words.

I beg to move:

In page 2, for clause 5. substitute—

"5. Amendment of section 23, Act LVI of 1951.—In section 23 of the principal Act, for the words 'sixty days' the words 'six months' shall be substituted and shall be deemed always to have been substituted."

I want to extend the time for appeal.

Mr. Speaker: Amendment moved:

In page 2, for clause 5, substitute—

"5. Amendment of section 23, Act LVI of 1951.—In section 23 of the principal Act, for the words 'sixty days' the words 'six months' shall be substituted and shall be deemed always to have been substituted."

There are now three amendments, amendment No. 33, moved by Mr. Sadhan Gupta for extension of the time of appeal, Mr. Vallatharas's amendment and Mr. Sodhia's amendment.

Dr. Katju: I am very sorry I am unable to accept any of the amendments. The very moving appeal that was made by my hon. friend, Mr. Bhargava, is something abnormal. That is not well-founded. Inasmuch as this is a self-contained statute, therefore, we had to insert a specific provision for an appeal. The deep attachment and reverence to the Sessions Judge when he decides in favour of the accused, is not shown when he decides the case against the

accused. If you love him, if you revere him, well, accept it both ways. If he decides against you, you go on appeal to the High Court and the highest tribunal and indulge in very strong language against the judge; but, if he decides in your favour, you say, 'look at the enormity of the Home Minister, he proposes an appeal to the High Court'. It is not an appeal to the Home Minister or the Executive authority but to the Judges of the High Court and it may very likely go to the Supreme Court with their independent authority.

One thing more has to be remembered. In these cases, there will seldom be opportunities for assessment of oral evidence. It all turns upon documentary evidence. Is it an incitement to violence, is it an incitement to murder?

Pandit Thakur Das Bhargava: Then why have a jury? Revert to 99A of Cr. P. Code.

Dr. Katju: Is it an attempt to seduce the Armed Forces from their loyalty to the State, and so on and so forth? Mr. Speaker, you have had experience and I have had experience—very very depressing experience—of how judges take different views. Therefore, I say, it is in the interests of everybody that there should be an appeal. I am not asking for any one to be hanged or imprisoned. What I am saying is, do these materials constitute objectionable matter within the four corners of section 3? It will be open to the High Court to say that this was a frivolous appeal and therefore award Rs. 500 to the respondent for costs. There is nothing to prevent them. If it is a good appeal, then there ought to be some security or some bond.

My hon. friends sometimes go to the length of referring to the Preventive Detention Act. Is it not joking with the subject? There, we constituted a special advisory board. The proceedings are all secret. No one knows how their mind works. They are not to deliver a judgment:

[Dr. Katju]

or anything like that. My hon. friend said how reasonable I was that I would not propose an appeal against the advisory board to the High Court. The two things do not go together. My hon. friend there just now said that there is competent authority. They should not appeal. They are both saying the same thing. My hon. friend over there said that no one should appeal excepting the keeper of the press or the publisher or the Government. No third person should appeal. That is what is the substance of the Bill itself, namely, the competent authority or the person aggrieved should alone appeal. The person aggrieved will be the keeper or the publisher.

My hon. friend, Mr. Gupta, if he will permit me to say so, is rather unreasonable. Sixty days are there for appeal. He proposes six months. Why, nobody knows. As it is, the proceedings have been prolonged and protracted. Some fifty-four cases are pending. There is procrastination. For all these reasons, I oppose the amendments.

Mr. Speaker: The question is:

"In page 2, for clause 5, substitute '5. Amendment of section 23, Act LVI of 1951.—In section 23 of the principal Act, for the words 'sixty days' the words 'six months' shall be substituted and shall be deemed always to have been substituted."

The motion was negatived.

Mr. Speaker: The question is:

"In page 2, line 9, for 'the competent authority or any other person' substitute 'Any of the parties to the inquiry'."

The motion was negatived.

Mr. Speaker: The question is:

"In page 2, line 9,—

(i) omit "The competent authority of"; and (ii) omit "other'."

The motion was negatived.

Mr. Speaker: The question is:

"That clause 5 stand part of the Bill."

The motion was adopted.

Clause 5 was added to the Bill.

Clause 6 was added to the Bill.

New Clause 7.— (Repeal of Ordinance 4 of 1954).

Amendment made:

In page 2, after line 15, add—

"7 Repeal of Ordinance 4 of 1954.—The Press (Objectionable Matter) Amendment Ordinance, 1954 (4 of 1954), is hereby repealed."

—[Dr. Katju]

New clause 7 was added to the Bill.

Clause 1.—(Short title and commencement).

Dr. Katju: I beg to move:

In page 1, for clause 1 substitute—

"1. Short title and commencement.—(1) This Act may be called the Press (Objectionable Matter) Amendment Act, 1954.

(2) It shall be deemed to have come into force on the 29th day of January, 1954."

The object of this amendment is to make it clear that the Act shall be deemed to have come into operation as from the 29th January 1954. That will also shorten the period of two years.

Shri K. K. Basu (Diamond Harbour): Withdraw it.

2 P.M.

Mr. Speaker: No interruptions. I shall put it to the House.

The question is:

In page 1, for clause 1, substitute—

"1. Short title and commencement.—(1) This Act may be called

ed the Press (Objectionable Matter) Amendment Act, 1954.

(2) It shall be deemed to have come into force on the 29th day of January, 1954."

The motion was adopted.

Substituted clause 1 was added to the Bill.

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

Dr. Katju: I beg to move:

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

Mr. Speaker: Motion moved:

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

Shri A. K. Gopalan (Cannanore): I have only to add a few words before the Bill is passed. I very strongly object to the passing of the Bill. In the discussion that has been carried on for the last two days, I was surprised to find that even the Home Minister several times said that the Bill is not aimed at any political parties, but at the same time he was also one among those who had been specially attacking the Communist Party. In the course of their speeches here, whatever Bill may be before the House, some hon. Members in this House turn their attention against the Communist Party, Russia, China, etc. Here, we have the Press (Objectionable Matter) Bill and it is aimed at only those papers indulging in certain types of offences as the Home Minister stated and I do not know why an hon. Member, after saying that he supported the Bill, began to attack the Communist Party, the policy of the Communist Party and talked about the 'slanders' or 'forgeries' of that Party. I respectfully submit that this is a legislative body, this is Parliament, where the Government is bringing forward several measures to see what the opinion in the country is in regard to them and what the Members have to say about them. At each time I find that the attack is being directed against the Communist Party and

the countries I mentioned. The whole object of the discussion of the Bill is not on the main point that is cited by the Opposition and also by some Members on the other side, but to make allegations against the Communist Party. I do not want to answer the allegations, because they have already been answered before by the representatives of my Party. I am not going to deal with the allegations of forgery and slander against the Communist Party, and even if I answer them, I know the same allegations will be repeated.

There are two important matters which I wish to point out in connection with the Bill before us. The Home Minister said that it is not directed against any political party or against any section of the Press. We cannot believe that it is so. The fact is not so because we see what is being done in the country—it is all against our Party. I do not want to go in detail, but I would say this. I have brought a few publications which are sold in the railway stalls and I do not know whether the Home Minister has seen them or remembers to have seen them. In that literature there is incitement to murder, incitement to violence and so many other bad things. Here is an article 'Radio Love School' which is obscene literature. Here is another journal *True Confessions* which also contains sufficient literature on incitement to murder and violence.

Shri N. C. Chatterjee: May I know the countries they come from?

Mr. Speaker: Order, order. Let the hon. Member not be interrupted.

Shri A. K. Gopalan: These books and journals are allowed to be sold in the stalls at railway stations. But here I have got another set of books that are not allowed to be sold at railway stations or even kept there. I want to know whether there is anything in this book which creates or tends to create disaffection, murder or anything of the kind. Whereas certain sets of books which we should not even look into are being

[Shri A. K. Gopalan]

freely allowed to be sold at the railway book-stalls, another set of literature, dealing only with education and science, containing no pictures as is found in the previous set of books, is being prohibited. I want to know the reason for this discrimination. I have got both these types of literature with me now. I do not want to go into details, or take the time of the House. But if one were to compare, he will very easily find that while the first type of literature contains items of incitement to murder, the latter contains only items on education, science and agriculture. This is nothing short of discrimination. It is only political vindictiveness that is responsible for this sort of discrimination.

Let me also say, Sir, that this Bill is also actuated by political vindictiveness. When this measure is passed, it will certainly be directed against certain sections of the Press which the Government do not like. When there is such discrimination even in regard to sale of literature, we can easily understand the aim of Government in bringing forward this measure. It is only with a view to prevent certain political ideas reaching the people.

Mr. Speaker: We are running against time.

What time will the hon. Minister take for his reply?

Dr. Katju: About ten minutes.

Shri A. K. Gopalan: Every hon. Member who spoke from the other side, emphasised the fact that this Act would be used irrespective of the political colour of the paper. If that is so, why not use the ordinary law of the country? The ordinary law is there, and any of the offences enumerated in this measure can be proceeded against under it. Then, why this extraordinary law? The reason urged for the urgency with which this extraordinary law is being brought is that there is no freedom in the Soviet Union, there is no freedom in China: so let us have this Bill! What has it to do with the freedom in China and Russia? Speeches were made about dictatorship in

Soviet Russia and lack of freedom in China. I ask in all seriousness: is it a valid and reasonable ground to proceed with this extraordinary measure here? We are not in a position to understand what is the emergent situation in the country. The hon. the Home Minister said there is danger. He will excuse me when I say that there is no danger to the country or to the people of the country, but there is a danger to the ruling party in this country and that danger is taking shape in some parts of India today. There is danger of the ruling party being overthrown. That danger is fast developing. I would say, Sir, that the object of the Bill is only to prevent that danger—of the ruling party being overthrown. On account of the actions of the ruling party that danger is taking practical shape. I say that by passing this Bill the Home Minister will not be able to eliminate that danger; on the other hand he will be adding to that danger. There is the ordinary law of the country and if there is any such paper, it can be proceeded against. What are the papers that he has shown? He has taken two or three words. I have no time to deal with it. I want to say that there are some papers in some parts of the country—I do not want to give the names of the papers—there are papers which watch the movements and write something. There are Ministers and officers who are afraid of such independent papers. It is they who have helped the administration in this country. The independent Press in this country has certainly safeguarded the liberty of the people because it is their writing, it is their vigilance that has safeguarded it. If the liberty is violated and strong words are used, there are the ordinary laws which the Government can at any time use. According to the number of cases that have come before us, we have seen that for the last many years, there are only very few cases. My submission is that there are no extraordinary circumstances here, no emergent situation today which wants this Bill and so this Bill should not be passed.

The next important point is this. Without any exception, even those papers that are supported by the Government, that never go against the Government, even those papers un-animously protested against this Bill. Even the *Hindustan Times* has protested against this. When all the papers that are sympathetic to the Government and always support the Government and never go against the Government policy, have said that they do not want this Bill, when the democratic opinion in the country is also against it and not only the opposition in this House but also the Members on the other side have stated that this Bill should not be passed, in spite of all this if this Bill is passed, I hope that this is the last black Bill passed by this Parliament. Let not this Government have long to pass such Bills again.

Dr. Lanka Sundaram: I rise to oppose this Bill. I had sat through 12½ hours of discussion not wishing to get involved in constitutional and legal arguments. The House will bear with me, if I may say so, that I am now speaking as a working journalist which I had been during the past twenty-five years and which I happen to be even today. I had the privilege of seeing from that gallery over there, for a period of ten continuous years, the battles royal fought between the late Bhulabhai Desai, late Satyamurthy, the late Jinnah against Craik, Maxwell and Mudie. I remember the historic occasion—in 1937, I believe—when standing from this bench, Mr. Satyamurthy, speaking for seven hours continuously, I think on the repeal of repressive laws. I say this because I have had the privilege of working in the gallery and as newspaper editor and proprietor.

[MR. DEPUTY-SPEAKER in the Chair]

My objections are five in number and before I read them—I will give them briefly—I must confess my profound sense of sorrow that such an elder statesman as my hon. friend, Dr. Katju, has no value for assurances given and promises made. I have no desire to waste the time of the

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House, but you will recall that at the time when the Constitutional Amendment Bill was under discussion, and also at the time when Mr. Rajagopalachari spoke in 1951, specific assurances were given—and I have got them recorded here—to the effect that this will not be a permanent measure. I regret to say that it is becoming a permanent measure; two years were never necessary for this. I am sorry that my hon. friend, the Home Minister does not believe or remember these assurances. If he is not prepared to respect the assurances given by his predecessor, God help this country.

Having said this, I will proceed to catalogue my objections to this Bill in as short a manner as possible. I consider this Bill to be a punitive measure. It is a measure which has put the Fourth Estate under duress. It is one continuous process of coming from behind, and not letting the quarry know when it will be pounced upon by the long arm of law. I am speaking from my experience of twenty-five years, not as a politician but as a journalist. Nobody objects to your swooping down on papers which make scurrilous attacks or which indulge in character-stabbing. I am completely in agreement that my hon. friend may proceed against them as he wishes to. But there is the ordinary law, the Indian Penal Code, to deal with this matter.

I have made an attempt to note down certain journals, at random, which have been proceeded against. Here they are: *Ujala* in Hindi, *Unmad* and *Masti* in Marathi, *Kalai-Nesan* in Tamil, and *Mulukola* in Telugu. I can go on listing them. I have no objection to Government proceeding against those papers that make scurrilous personal attacks or indulge in character-assassination. But that is not a reason why a Bill should be brought forward by which the entire Fourth Estate, the entire newspaper profession, is sought to be penalised. I consider that the newspaper profession in this country has had a most glorious record of public work. I happen to have lived abroad for

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about ten years and I know something about the functioning of the Press in other countries. I can say with a sense of pride that we can still trust the Press in this country, and the various professional associations which are setting up a high code of conduct and morality, for newspapers and even publications.

I will give my objections. I regret to say that the competent authority is going to be the district judge and jury. It is part of a very slow process by which Government is trying to introduce what the Frenchmen would call *droit administratif*, that is administrative justice. I have seen the manner in which *ad hoc* tribunals for labour and corruption cases, and advisory councils on preventive detention cases are being operated. Little by little the law of the land is being nibbled at, and special procedures and tribunals are being created. The provisions relating to the judge and jury business, against which my hon. friend Pandit Thakur Das Bhargava spoke so vehemently, and to my mind so convincingly, are not necessary.

The second objection is this. And I want the hon. House to bear with me for a few seconds. We have declared ourselves to be a Welfare State. Unfortunately it is fast becoming a Bureaucratic State. Neither Parliament, nor the State Legislatures, nor Ministers at the Centre or in the States are able to run the administration. Little by little every aspect of administration is being vested in the hands of bureaucrats. If I am not mistaken, as one having some experience of prosecutions in these newspapers, some small minion in the secretariat somewhere would decide that some action should be taken against such and such paper; and the whole machinery is geared up and finally prosecutions are launched. My hon. friend Shri Chatterjee has pointed out a case in Delhi where for three thousand rupees, thirty thousand was sought to be extracted as fine or security, whatever it was. I also know something about this case personally, because I have been a resident of Delhi for

about twenty years. The mistake of a small man in office led to this debacle.

The third objection is this. I would have expected my hon. friend to go hammer-and-tongs against the press barons, the tycoons who are managing the newspapers in India. I know, and my friends know, that sons and sons-in-law of people in high places are being employed to screen the activities of these press barons. The case happens to be this. Thousands and thousands of small papers are really the beacon-holders and torch bearers of liberty in this country. This Bill will be utilised, as it has been said, against these small and independent papers which are now sought to be muzzled. This Bill in particular reminds me.—Mr. Deputy-Speaker, you were a very prominent Member in the old Central Assembly—this Bill reminds me of something like the Princes' Protection Bill, seeking to protect bureaucracy, certain political parties and so on and so forth.

My fourth objection is this, and I want the House rather to be generous in following this argument. The vast majority of the weekly papers are printed on a job-printing basis in printing presses. As my hon. friend Pandit Thakur Das Bhargava said a little while ago—and also my hon. friend Shri Vallatharas—these are ordinary job works given to newspapers or keepers of the press. Now a vicarious punishment is sought to be made. I know a number of cases. I have been a publisher myself of newspapers and books, and I can tell you this. You are making these printers also responsible for the matter given to them for composition, which they cannot understand, about which, in any case, they cannot possibly do anything to control or determine. This I consider is most objectionable. I am sorry that the presses are being penalised under this law.

This is my last point and I have done. In England, United States of America, Iran, South Africa, Jordan, and other parts of the world, there is no provision for pulling up any newspaper for supposed criticism of the

head of a friendly State. They are proceeded against under the common law of the land. I do not see any reason why we should have this law and bring this question under the purview of this law.

I again repeat that the country is entirely with the Government for the removal of scurrilous literature, but is not in sympathy with the other provisions. When the counter-attack by the Press begins, God alone knows where the Government will be and the party in power will be. Anyway, I must say that the journalists have got a code of conduct and they are trying to evolve better codes day by day. My friend the hon. Minister is just shaking his hands in rotary motion.

Dr. Katju: I am hearing you.

Dr. Lanka Sundaram: Like the proverbial Tibetan you are now twirling your prayer-wheel, and I hope the prayer will not go unanswered.

Therefore, I submit, Sir, let not this mischievous law be enforced ruthlessly.

Dr. Katju: We have heard the last three speeches with great interest. Sometimes I think that words lose their meaning when they are used either by me or by hon. Members opposite. I always try to use the word in their commonly understood sense. I cannot understand how this particular Act would affect the 'working journalists'. Here it strikes the keeper of the press or the publisher of a particular newspaper. If the working journalist writes an article which is reprehensible and which constitutes objectionable matter, what would my hon. friend Dr. Lanka Sundaram ask me to do?

Dr. Lanka Sundaram: Proceed against him.

Dr. Katju: The point is this. I say plainly that I am a great admirer of the more responsible section of the Indian Press. It is not our intention to do anything to curb that press. We want to encourage it, because this being a प्रजा तंत्र (Republic), it is the function of all of us here, it is the

function more of the Press not only to be the interpreter of public opinion, but also to be the educator of public opinion. It is not a question of party matter. You advocate policies within the limits of the law and express them strongly. I am not objecting to the form of expression or to the words that we use. But, in the definition of objectionable matter, my hon. friends have not attempted to deal with them, every single clause is a distinct section of the Penal Code and it constitutes criminal offences. Do they want that permission or latitude should be given to the newspaper world or to the journalists to broadcast them? My hon. friend Shri Gopalan said about discrimination in using the Act. He said: "you go to the railway station and you will find lot of unworthy books." I can only invite him, if he will, to do me the favour of writing to me. Any hon. Member here can write to me saying that such and such a book is obscene.

Mr. Deputy-Speaker: I am sure Shri Gopalan will pass on those books to you.

Dr. Katju: If he will only pass on those books to me I will see what I can do.

Shri N. C. Chatterjee: You also want to enjoy them.

Mr. Deputy-Speaker: What he says is that in the hands of young men, it will be dangerous.

Shri Joachim Alva (Kanara): May I say, Sir, that from now on there must be a drive against the obscene literature in the railway book-stalls and all such places?

Dr. Katju: My hon. friend Shri Gopalan has used a language which opens a great vista of thought before me. I thought I will give him an appropriate reply.

Shri A. K. Gopalan: We shall meet outside.

Dr. Katju: I want to close this instructive debate, because there has been great interchange of thought and

[Dr. Katju]

great interchange of ideas, on this note, namely, let the Indian Press be satisfied completely that their honour is our honour, their prosperity is our prosperity, and I say that it is a complete misuse of language to say that this Act is intended in any way to curb the activities of the Press. I wish to say that it is really intended for their benefit. (Some Hon. Members; Oh!)

Then my hon. friend Dr. Lanka Sundaram, in his own fashion, referred to this as a sort of administrative justice, the reign of bureaucrats, etc. But, we all forget that there is the learned Sessions Judge, learned and serious, who is sitting there to pronounce judgment and there is the appeal to the High Court. Where do the bureaucrats come in? Have the Sessions Judges and High Court Judges become bureaucrats?

Pandit Thakur Das Bhargava: And the summons case procedure also.

Dr. Katju: I think that is not a gathering of bureaucrats. I am reminded of a very famous saying of Dr Johnson:

"May God grant us the gift of freeing our mind from cant."

Dr. Lanka Sundaram: You make a beginning.

Dr. Katju: We just use slogans: the Communist party or this party or that

party or my party. As he said, let us free our mind from them and let us say plainly what we need. I know what they need; I can understand what Sardar Hukam Singh needs; I do not know what Dr. Lanka Sundaram needs.

Mr. Deputy-Speaker: The question is:

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

The 'Ayes' have it.

Some Hon. Members: The 'Noes' have it

Mr. Deputy-Speaker: Will the hon. Members rise in their seats?

Some Hon. Members: No, division.

Mr. Deputy-Speaker: All right; division.

Certainly some time will be taken up by the hon. Members going to this lobby and the other. Whatever time we take will eat into the time allotted for the other Bills. There are three Bills which have to be disposed of to day. I leave it to the House. If they want to stand, I will have to count their number. If they want to divide: whatever time is taken up, to that extent it will be less on the other Bills.

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

The House divided. Ayes 185; Noes 49.

Division No. 5

Achal Singh, Seth
Achint Ram, Lala
Achuthan, Shri
Agrawal, Shri H.L.
Agrawal, Shri M. L.
Akarpuri, Sardar
Alageean, Shri
Altekar, Shri
Asthana, Shri
Azad, Maulana
Balakrishnan, Shri
Balasubramaniam, Shri
Bansal, Shri

Barman, Shri
Barupal, Shri P.L.
Basappa, Shri
Bhagat, Shri B.R.
Bhakt Darshan, Shri
Bhargava, Pandit M. B.
Bhargava, Pandit Thakur Das
Bhartiya, Shri S. R.
Bhatt, Shri C.
Bhonale, Shri J. K.
Bidari, Shri
Birbal Singh, Shri
Bogawat, Shri

Boroosh, Shri
Bose, Shri P.C.
Brajeshwar Prasad, Shri
Brahmo-Choudhury, Shri
Chandak, Shri
Charak, Th. Lakshman Singh
Chaturvedi, Shri
Chavda, Shri
Chettiar, Shri T. S. A.
Chinaria, Shri
Choudhuri, Shri M. Shaffee
Dabhi, Shri
Damar, Shri

2-32 P.M.

AYES

Damodaran, Shri G. R.	Krishana Chandra, Shri	Roy, Shri Patiram
Das, Shri B. K.	Lal, Shri R. S.	Rup Narsain, Shri
Das, Shri K. K.	Lallanji, Shri	Sahu, Shri Rameshwar
Das, Shri N. T.	Leaskar, Shri	Samanta, Shri S. C.
Das, Shri S. N.	Madiah Gowada, Shri	Sanganna, Shri
Detar, Shri	Mahodaya, Shri	Satyawadi, Dr.
Deb, Shri S. C.	Mahatab, Shri	Sen, Shri P. G.
Dholakia, Shri	Majhi, Shri R. C.	Shah, Shri R. N.
Dhulekar, Shri	Malliah, Shri U. S.	Sharma, Pandit K. C.
Dube, Shri Mulchand	Malvia, Shri B. N.	Sharma, Shri K. R.
Dubey, Shri R. G.	Malviya, Pandit C. N.	Sharma, Shri R. C.
Dwivedi, Shri D. P.	Masuoedi, Maulana	Shivananjappa, Shri
Dwivedi, Shri M. L.	Metthen, Shri	Shobha Ram, Shri
Elayaperumal, Shri	Mehta, Shri Balwant Sinha	Siddananjappa, Shri
Gandhi, Shri Feroze	Metha, Shri B. G.	Singh, Shri D. N.
Gandhi, Shri V. B.	Miahra, Shri S. N.	Singh Shri Babunath
Gautam, Shri C. D.	Mishra, Shri Bibhuti	Singh, Shri H. P.
Giri, Shri V. V.	Miahra, Shri L. N.	Singh, Shri L. Jogeswar
Gounder, Shri K. P.	Mishra, Shri Lokenath	Singhal, Singh S. C.
Govind Das, Seth	Mishra, Shri M. P.	Sinha, Dr S. N.
Gupta, Shri Badshah	Mohd. Akbar, Sofi	Sinha, Shri A. P.
Hazarika, Shri J. N.	Moraraka, Shri	Sinha, Shri K. P.
Heda, Shri	More, Shri K. L.	Sinha, Shri Nageshwar Prasad
Hem Raj, Shri	Mukne, Shri Y. M.	Sinha, Shri S.
Hembrom, Shri	Muthukrishnan, Shri	Sinha, Shri Satya Narayan
Hyder Husein, Ch.	Naskar, Shri P. S.	Sinhasan Singh, Shri
Ibrahim, Shri	Nehru, Shrimati Uma	Somana, Shri N.
Iyyani, Shri E.	Neswai, Shri	Subrahmanyam, Shri T.
Iyyunni, Shri C. R.	Pannalal, Shri	Suresh Chandra, Dr.
Jagjivan Ram, Shri	Paragi Lal, Ch.	Suriya Prasad, Shri
Jain, Shri A. P.	Parikh, Shri S. G.	Tiwari, Sardar R. B. S.
Jajware, Shri	Parmar, Shri R. B.	Thomas, Shri A. M.
Jayashri, Shrimati	Pataskar, Shri	Tivary, Shri V. N.
Jena, Shri K. C.	Petel, Shri B. K.	Tripathi Shri K. P.
Jena, Shri Niranjan	Petel, Shrimati Maniben	Tripathi, Shri V. D.
Jhunjhunwala, Shri	Patil, Shri Shankargauda	Tyagi, Shri
Joshi Shri Jethalal	Prasad, Shri H. S.	Uikey, Shri
Joshi, Shri M. D.	Rachiah, Shri N.	Upadhyay, Pandit Munishwar Datt
Joshi, Shri N. L.	Radha Raman, Shri	Upadhyay, Shri Shiva Dayal
Joshi, Shrimati Subhadra	Raghubir Sahai, Shri	Upadhyay, Shri S. D.
Kajrolkar, Shri	Raghnath Singh, Shri	Vaishnav, Shri H. G.
Kakkam, Shri	Ram Dass, Shri	Viashya Shri M. B.
Kasliwal, Shri	Ram Saran, Shri	Varma, Shri B. B.
Katju, Dr.	Ram Subhag Singh, Dr.	Verma, Shri M. L.
Keahavaiengar, Shri	Ramananda Tirtha Swami	Venkataraman, Shri
Khongmen, Shrimati	Ramaswamy, Shri P.	Vishwanath Prasad, Shri
Khuda Baksh, Shri M.	Ranbir Singh, Ch.	Wilson, Shri J. N.
Krolikar, Shri	Rane, Shri	Wodeyar, Shri
Kolay, Shri	Raut, Shri Bhola	

NOES

Achalu, Shri	Chowdary, Shri C. R.	Gurupadaswamy, Shri M. S.
Amjad Ali, Shri	Chowdhury, Shri N. B.	Hukum Singh, Sardar
Bahadur Singh, Shri	Das, Shri B. C.	Khardekar, Shri
Banerjee, Shri	Deogam, Shri	Lal Singh, Sardar
Barrow, Shri	Deahpande, Shri V. G.	Majhi, Shri Chaitan
Basu, Shri K. K.	Gadilingana Gowd, Shri	Mascarene, Kunnari Annie
Biren Dutt, Shri	Gidwani, Shri	Menon, Shri Damodara
Chatterjee, Shri Tushar	Gopalan, Shri A. K.	Missir, Shri V.
Chatterjee, Shri N. C.	Gupta, Shri Sadhan	More, Shri S. S.

Mukerjee, Shri N. M.
 Nambiar, Shri
 Nayar, Shri V. P.
 Raghavachari, Shri
 Ramaseshah, Shri
 Ramnarayan Singh, Babu
 Rao, Dr. Rama
 Rao, Shri P. R.

Rao, Shri Mohana
 Rao, Shri Seahagiri
 Rao, Shri T. B. Vittal
 Reddi, Shri Bswara
 Rishang Keishang, Shri
 Shah, Shrimati Kamalendu Mati
 Shakuntala, Shrimati

Singh, Shri R. N.
 Subrahmanyam, Shri K.
 Sundaram, Dr. Lanka
 Swami, Shri Sivamurthi
 Trivedi, Shri U. M.
 Veeraswamy, Shri
 Velsiyudhan, Shri

The motion was adopted.

TRANSFER OF EVACUEE DEPOSITS BILL

The Minister of Rehabilitation (Shri A. P. Jain): I beg to move*:

"That the Bill to provide, in pursuance of an agreement with Pakistan, for the transfer to that country of certain deposits belonging to evacuees, the reception in India of similar deposits belonging to displaced persons, and matters connected therewith, be taken into consideration".

Sir, this is a short and simple measure, yet a very welcome measure which brings a ray of hope to the refugees. It is the result of an agreement between ourselves and Pakistan. It is based on reciprocity. Pakistan has already promulgated an Ordinance which provides for the transfer of certain types of movable properties. We on our part promulgated an Ordinance to the same effect. This Bill is meant to give permanent effect to the provisions of that Ordinance.

Broadly speaking, the history of this Bill is something like this. In 1950, we entered into an agreement with Pakistan which provided for the transfer of deposits of the evacuees in the civil and revenue courts, deposits in courts under the Guardian and Wards Act and deposits of wards with the Court of Wards. In order to give effect to that agreement, it was necessary for both India and Pakistan to pass legislation. Ever since 1950 for three years we went on trying to persuade Pakistan to undertake the necessary legislation, but we could not

succeed. Fortunately, as a result of the July/August 1953 talks between the representatives of India and Pakistan, it has now been possible for us to undertake the necessary legislation.

In order to understand the full import of this Bill, it would be necessary for hon. Members to look at the definition of the word 'deposit'. It consists of three parts: (1) any movable property in the custody of a civil or revenue court, (2) any movable property under the superintendence of the Court of Wards, and (3) any movable property in the custody of a manager under the Encumbered Estates Act.

This Bill provides that in the mass migration areas which are defined under section 4, where all the parties to a revenue or civil court deposit are evacuees, the deposits will be transferred to Pakistan. Similarly, where both the minor and the guardian are evacuees, the deposits will be transferred to Pakistan. In the case of Court of Wards, where the ward is an evacuee, the deposit will be transferred to Pakistan. On the basis of the reciprocal legislation passed by Pakistan, deposits of similar types in Pakistan will be passed on to India. Then, there might be certain deposits of this type in the mass migration areas where one or more of the parties may be evacuees, others may not be. In such cases, the Bill makes no provision for mass transfer and each case will have to be examined by the Custodian and the interests of the

*Moved with the recommendation of the President.