

staff. The next day, the Commander-in-Chief called in our Acting Commissioner and also offered his apology and promised to take necessary action.

Shrimati Renu Chakravarty (Basirhat): Have they been released?

Mr. Speaker: Order, order. No questions.

Shri N. C. Chatterjee (Hooghly): What is the number of persons arrested, and have they been released?

Shri Jawaharlal Nehru: No Indian was arrested. The African employees were all taken away and, as I have just said, The Governor said that they have been taken away for what is called screening. They will be screened as rapidly as possible.

Shri S. S. More (Sholapur): Is it permissible?

Mr. Speaker: No questions.

ABSORBED AREAS (LAWS) BILL—
Concl'd.

Mr. Speaker: Before we proceed with the next stage of the Absorbed Areas (Laws) Bill, I must invite the attention of the hon. Members to the allotment of time made by the Business Advisory Committee. We have today on the agenda, firstly, the Absorbed Areas (Laws) Bill, which is under consideration now, secondly, the Drugs and Magic Remedies (Objectionable Advertisements) Bill, thirdly, the State Acquisition of Lands for Union Purposes (Validation) Bill and then the Indian Railways (Second Amendment) Bill. For all these, the Committee, I believe, has allotted five hours, out of which we have already taken perhaps about half an hour till now. So, four and a half hours are left for those Bills, and I would request hon. Members to be very short in their speeches. The Absorbed Areas (Laws) Bill is of a formal or technical character and there is not much to be said about it. From what the hon. Member, Shri Jajware, was speaking, I think there

is some misapprehension about the Bill. We need not go into all those details in which he was going. As will be seen from the Statement of Objects and Reasons, the object is to bring into uniformity all those areas in which certain laws of the Union Government are not in force today. It is not a question of excluding those areas but of bringing them into the Union. That is my understanding of it. If I am wrong, of course, the hon. Home Minister will correct the whole position.

श्री भक्त दर्शन (जिला गढ़वाल—पूर्व व जिला मुरादाबाद—उत्तर पूर्व): अध्यक्ष महोदय, मैं इस विधेयक का स्वागत करता हूँ। मैं माननीय मंत्री महोदय से यह निवेदन करूँगा, जैसा कि आपने कहा है मुझे बहुत संक्षिप्त होना चाहिये, मैं केवल इतना निवेदन करना चाहता हूँ कि यह जो कानून सारे भारत के विभिन्न राज्यों में लागू किया जा रहा है, यह इस भावना का प्रतीक है कि हमारी वर्तमान सरकार पिछड़े हुए इलाकों को अन्य उन्नत इलाकों के समकक्ष लाना चाहती है। मैं माननीय मंत्री जी से यह अनुरोध करूँगा कि इन कानूनों को जल्दी से जल्दी लागू किया जाना चाहिये और इसलिये मैं इस विधेयक का स्वागत करता हूँ।

हमें इस बात का ध्यान रखना है कि जिन इलाकों में इन कानूनों को आप लागू करने जा रहे हैं, वहाँ की जनता कहाँ तक इन के लिये तैयार है और वह लोग अन्य इलाकों से पिछड़े रहने के कारण कितने पीछे रहे हैं, तथा उन की उन्नति करने का कहाँ तक प्रयत्न किया जाना है। हमारे गृह मंत्री जी, जो कि हमारे उत्तर प्रदेश के निवासी हैं और वहाँ मंत्री भी रह चुके हैं, वह जानते हैं कि जौनसार-बावर से मिले हुए जो जिले उत्तर प्रदेश में है वह पहले शैड्यूल्ड क्षेत्र घोषित किये गये थे, लेकिन धीरे-धीरे, नये-नये कानून पास किये गये और उन जिलों को उन के

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अन्तर्गत लाया गया। केवल जौनसार-बावर का इलाका ऐसा है जो उस में नहीं आया था। मझे बड़ी प्रसन्नता है कि जौनसार-बावर में भी नया कानून लागू किया जा रहा है।

मैं सदन का समय अधिक नहीं लेना चाहता लेकिन मैं मंत्री महोदय से केवल इतना निवेदन करना चाहता हूँ कि इस कानून को लागू करने के साथ-साथ यदि इन इलाकों के पिछड़ेपन को हटाने के लिये भी वे प्रयत्न करें यदि वे आर्थिक, सामाजिक और शिक्षा-सम्बन्धी सभी परिस्थितियों को समान रूप से उन्नत करने का प्रयत्न करें तो वहाँ की जनता इसके लिये उन की सदा आभारी रहेगी।

[SHRI PATASKAR in the Chair]

इन शब्दों के साथ मैं सदन का अधिक समय न लेता हुआ इस विधेयक का स्वागत करता हूँ और मंत्री महोदय को विश्वास दिलाना चाहता हूँ कि जौनसार-बावर की जनता, जो इतने दिनों से पिछड़ी हुई है इन सुधारों का हृदय से स्वागत करेगी।

Shri Sadhan Gupta (Calcutta—South-East): The apparent object of this Bill is to bring into uniformity the governance of the areas which were formerly not excluded or partially excluded areas and the areas which were excluded and partially excluded areas. We have no quarrel with this principle, but we have certain quarrels with the priority given to this Bill and also with some of the details of the Bill. Now, as to the priority, it seems very strange that an important Bill like the Removal of Untouchabilities Bill is allowed to stand over till the next session, or, God knows, till which session—while this Bill which is of comparatively minor importance has been brought forward in this session. That Bill is a small Bill, as far as we have been it. It was not likely to be a very long-drawn measure, and it could have easily been passed in this session. Article 35 of the Constitu-

tion provides that such a legislation will have to be enacted, as soon as may be, after the commencement of the Constitution. But it seems that even the lapse of four years is not covered by the term 'as soon as may be'. For three thousand years or more, this evil of untouchability has been in our country.

Shri N. M. Lingam (Coimbatore): On a point of order. The hon. Member is questioning the priority given to the consideration of this Bill, and proceeds to discuss the evil of untouchability. Is it in order? Is it within the scope of this Bill?

Mr. Chairman: I do not think the hon. Member is going to elaborate on that point. He just wants to make the point that the other Bill should have been brought earlier.

Shri Sadhan Gupta: I was only discussing the policy of Government in relation to this Bill, and saying that this has been given an undeserved priority over a Bill which was much more important from the national point of view, and was enjoined by the Constitution itself.

The second quarrel that we have with the policy of the Bill is the indiscriminate way in which Central enactments have been extended. Now, take the case of the Bombay State. The Schedule, which refers to the Bombay State, extends, among other Acts, the Whipping Act, and the Police (Incitement to Disaffection) Act. It may be very desirable that excluded areas and partially excluded areas should be brought in line with the regularly administered districts, but we cannot concede that it is at the same time desirable to extend the vicious and repressive legislation promulgated by the British, to these areas, in order to make the uniformity more uniform. If the excluded and partially excluded areas have escaped from such repressive legislation as the Whipping Act or the Police (Incitement to Disaffection) Act, why not let them remain without these repressive Acts? Why

do you extend those abominations which the British had brought upon the other portions of India, into these areas, when they were not there before.

As for the Whipping Act, it provides for whipping even of juvenile offenders, which is, if I may say so, a barbarous punishment, and which is acknowledged as barbarous by the conscience of civilised society. As for the Police (Incitement to Disaffection) Act, it is provided there that whoever causes disaffection in the police has to undergo certain penalties. The term 'disaffection' has been judicially construed as lack of affection. There may be many measures of Government, which create dissatisfaction in the police, for instance, there may be dissatisfaction regarding low pay or dissatisfaction regarding uniform and so many other things. If that dissatisfaction is voiced, then there is supposed to be disaffection. That is the judicial construction of the word 'disaffection'. Even the explanation given to section 3 of the Police (Incitement to Disaffection) Act, is not of very great help in this respect. It says that acts of disapprobation of measures of Government, with a view to obtain their alteration by lawful means, or of disapprobation of the administrative or other actions of Government, do not constitute an offence under this Act, unless those acts are causing or are likely to cause disaffection. Disapprobation may be expressed, but if those acts cause or are likely to cause disaffection, then the person is brought within the penal provisions of this section.

Now, it is quite understandable that if some injustice is done to the police, and some mention is made of it, the reaction in the minds of the police force will not be affectionate towards Government. They will perhaps not be content with that particular aspect of governmental treatment. This would be disaffection. It is universally held in all democratic countries that what we should guarantee to government is

not affection, but the loyalty of the people to the state itself, namely that the people may not be incited to overthrow government, by violent means. Disaffection is a much wider term, and it includes every conceivable dissatisfaction against Government. This kind of a thing we cannot accept. This kind of a law which was brought into being by the British, for repression of our national movement, should not be extended to these excluded and partially excluded areas. We can be no party to such extension, and we will oppose this extension.

Shri S. S. More (Sholapur): The first point that I want to raise, for the consideration of Government, is whether under the present constitutional provision, any enactment of the nature placed before the House is necessary. In the Statement of Objects and Reasons, section 92 of the Government of India Act has been mentioned. We all know that the Government of India Act is as dead as the Egyptian mummy. I do not understand the relevance of quoting section 92, because the Government of India Act, which was enacted in 1935, and which held some ground for some time, has been replaced now by the Constitution, and the Adaptation of Laws Orders, after the Indian Independence Act; and I believe there is no excluded or partially excluded area as such, now.

Under the Constitution, there is the Union List as well as the State List. Any enactment by Parliament will be automatically applicable to the States, if the particular matter regarding which legislation has been framed, comes under the Union List; or, if a particular aspect, which is under the State List, has to be legislated upon the State has every competence to legislate for that. The absorbed areas have now been completely absorbed, and they have become part and parcel of the States mentioned in the First Schedule, and if that be so, their exclusive existence has ceased to be a fact.

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I would also refer you to article 372, under which certain Acts have adapted. Article 372 reads:

“Notwithstanding the repeal by this Constitution of the enactments referred to in article 395 but subject to the other provisions of this Constitution, all the law in force in the territory of India immediately before the commencement of this Constitution shall continue in force therein until altered or repealed or amended by a competent Legislature or other competent authority....”.

In 1950, the President issued an Adaptation of Laws Order, under which all the Central Acts have been adapted, and their extension or application has been sufficiently comprehensive even to include these areas.

Take, for instance, the Whipping Act. Now, this Whipping Act, which was a consolidated measure in 1909, says: “This Act”—I am reading from sub-section (2) of section 1—“may be called the Whipping Act, 1909”. “It extends to all the provinces of India inclusive of the Santal Parganas etc. etc.” This was adopted by the Adaptation Order of the President. According to this Order, it extends to the whole of India except Part B States. If this Adaptation Order is still holding the field, then it extends to the whole of India excepting Part B States. If we go to the Schedule of the States that are mentioned—Bihar, Bombay, Orissa, Uttar Pradesh and West Bengal—all of them are Part A States. Now, take, for instance, the Whipping Act. It is supposed to be applicable to the Bombay State. That is my submission; it applies to all the territories which come under the Bombay State. Then let us compare the provisions of section 92 of the Government of India Act and find out whether there are any similar provisions under our Constitution. Section 92 of the Government of India Act laid down that whenever the Central Government

passed any legislation, then as far as the excluded areas or part of them were concerned, the Governor could apply it by notification. But we have not got a similar provision; we have a distinct provision under article 244 read with Schedule Five, paragraph 5. Schedule Five, paragraph 5 says: ‘Law applicable to Scheduled Areas’. Now, under this Constitution the expression is “Scheduled Areas” and not excluded areas.

“Notwithstanding anything contained in this Constitution, the Governor or Rajpramukh, as the case may be, may by public notification direct that any particular Act of Parliament or of the Legislature of the State shall not apply to a Scheduled Area or any part thereof in the State or shall apply to a Scheduled area..”

So what is the difference between section 92 of the Government of India Act of 1935 and this particular provision? Under section 92, no Act could be applicable unless the Governor made a declaration by notification. But under this provision, application is automatic unless the Governor or the Rajpramukh by notification says “This particular provision shall not be applicable to the Scheduled area’. Therefore, my submission is that under the provisions of the Constitution, the Adaptation Order, article 372 and paragraph 5 of Schedule Five, this Act has no relevance, is not necessary and is wrongly conceived.

Then I would like to raise another point. What are the Acts that are not applicable or that were not applicable under section 92 of the Government of India Act of 1935? Why this piecemeal legislation? Am I to understand from the Government that only these Acts mentioned in column 1 are not applicable to the absorbed areas and therefore their extension has to be undertaken by this sort of legislation? At least if there are any other Acts which also

were not originally applicable, Government should have come forward with a consolidated legislation making all Acts applicable which were formerly excluded under section 92 of the Government of India Act. But they particularly mention certain Acts. I do not see the propriety of extending only these Acts. Does it mean that out of certain Acts which are not applicable under section 92 or even under the constitutional provision as it is conceived by Government, only these Acts are selected for being extended to the absorbed areas? Even if that be so, I very seriously and with vehemence oppose the extension of the Whipping Act and the extension of the Police (Incitement to insurrection) Act. My hon. friend, the Member for Calcutta South-East, Mr. Sadhan Gupta, has already referred to the Whipping Act. I need not dilate on it, but I may say that the Whipping Act has been placed in the statute-book by the Britishers because they were keen on whipping the people into submission. They would the people to submit to all the atrocities and though they pretended to be democrats, this was a reflection of their barbaric origin. So they brought this particular legislation into the statute-book in order to whip the people into submission and accelerate slavish fetters. But now that Congress Government is in power, we believe that such measures which are relics of barbarism, which are inhuman and cruel to the severest extent, should not be there. But this is present to the absorbed areas, have not taken primary educational facilities to them; we have not taken any provision to them and given them some land in order to satisfy their hunger. And what are we presenting them with? We are presenting them with lashes. Now, what is our expectation in the national movement? I take the case of a person from the Punjab—you were there in the province as a legislator—the case of our political worker, Mr. Chavan. He was flogged so mercilessly

and severely that he succumbed to this whipping and then—I see Dr. Katju is nodding his head in an approving manner; I believe he is accepting....

The Minister of Home Affairs and States (Dr. Katju): Mr. Chairman, I object to this. Neither did I nod my head nor did I stand...

Shri S. S. More: I apologise to him. (*Interruptions*).

Mr. Chairman: The hon. Member was developing a good argument but by this reference to the hon. Minister he has spoiled it.

Shri S. S. More: I saw his head was shaking. I thought it to be voluntary. But if it is due to age, I do not mind it. I was encouraged to make my comment because I felt that he was approving what I was saying.

Mr. Chairman: I would advise the hon. Member to concentrate more on his point than on references like this.

Shri S. S. More: Dr. Katju, by his nodding of head, was provoking me to make my comments about him.

Mr. Chairman: Let the hon. Member now proceed with his argument.

Shri S. S. More: I was referring to the case of one Mr. Chavan who was lashed to death, and when the Congress Government came into power in 1937, they appointed a Committee—a one-man Committee—under Mr. Lokur. Mr. Lokur went into all the facts of the incident and he came to the conclusion—now I speak from memory—that the whipping that Mr. Chavan was subjected to was merciless and it resulted in the death of that unfortunate political worker. So in the light of our own experience, in the light of different enquiries and in the light of our own condemnations, this Whipping Act has no reason to exist, but in spite of that fact, Dr. Katju is allowing this pernicious measure to exist. Not only that. He is not able to give some economic relief to the absorbed areas. He is not out to give this whipping present to

[Shri S. S. More]

all these absorbed areas. My submission is that I still expect that the Congress will be faithful to their previous declarations.

Dr. N. B. Khare (Gwalior): Never expect that.

Shri S. S. More: My friend, Dr. Khare thinks that I am too optimistic in that expectation. But, all the same, I do plead and make a serious appeal to the Congress; let them stand by their own previous declarations and their previous experience.

With these few words, I would say that as far as the constitutional position is concerned, the legal position is concerned, this Act is absolutely unnecessary. I need not quote the relevant article. All the Acts made by Parliament, all the Acts adapted by Parliament and all the President's orders become automatically applicable to all the areas, whether A, B or C, unless a particular part is excluded under the Order of Adaptation. This is my contention.

On other merits, at least the Whipping Act need not be extended. I know the Chief Minister of Bombay is very fond of such measures; but the Central Government should not be a party and supply him with the whip that he needs for teaching the people some lesson.

श्री हेमब्रूम (संथाल परगना व हजारी-बाग—रक्षित—अनुसूचित आदिम जातियाँ): सभापति महोदय, मेरे दोस्त श्री राम राज जजवाड़े ने जो सुझाव दिया उस के विषय पर समर्थन कर मैं थोड़ा सा आप का ध्यान दिलाना चाहता हूँ। बिहार में संथाल परगना डिस्ट्रिक्ट एक बहुत जंगली एरिया है। उस एरिया में रह कर हमने जमीन को अच्छी बनाया और खेती का इन्तजाम किया और बहुत सारे कामों को हम ने बढ़ाया। उस एरिया में बहुत ज्यादा आबादी आदिवासी बाशिन्दों की है। वह लोग वहाँ पर आज

कल रहते हैं, उन के पहले वहाँ पर और पहाड़ी लोग भी थे जोकि जंगल और पहाड़ों में रहा करते थे। हम ने संथाल परगने की जमीन की तरक्की की है। इस एरिया को सेन्ट्रल गवर्नमेंट की ओर से शेड्यूल्ड एरिया बनाया गया। बाद में वह शेड्यूल्ड एरिया नहीं रहा और उसके ६ सब डिवीजन बना दिय गये। इन ६ परगनों में सिर्फ संथाली लोग ही नहीं हैं, उन में और भी बहुत जातियाँ रहती हैं। अभी हमको मालूम हुआ कि कौंसिल आफ स्टेट्स ने यह पास कर दिया कि इन ६ सबडिवीजनों में से दो ही पर (देवघर और गोड्डा) एक दूसरा कानून लागू होगा। हम इस बात का विरोध करते हैं। हम चाहते हैं कि हमारी सेन्ट्रल गवर्नमेंट और गृह मंत्री जी इस चीज की पहले जा कर ठीक से जांच करें। ब्रिटिश शासन के दिनों में वर्तमान कानून को उस एरिया में लागू किया गया था। उन्होंने उस की बाउन्ड्री निश्चित की। उस बाउन्ड्री को हमारी सेन्ट्रल गवर्नमेंट ने स्टेट गवर्नमेंट को हस्तगत दे कर परिवर्तित किया। इस एरिया में हम आदिवासी लोग रहते हैं। आदिवासी की तमाम सुविधाओं के लिये पहले से बिहार गवर्नमेंट ने ध्यान दिया है। अब जो कानून लागू किया जा रहा है उस से आदिवासियों को बहुत तकलीफ मिलेगी, सेन्ट्रल गवर्नमेंट इस पर ध्यान दे। आज कल हमारी गवर्नमेंट है, पहले हमारी गवर्नमेंट नहीं थी इस लिये हमारी सुनवाई नहीं होती थी। उस समय मिशनरी लोग हमें तंग किया करते थे। जब से हमारी सेन्ट्रल गवर्नमेंट हिन्दुस्तान में हुई है उस वक्त से हम लोगों को कुछ बोलने का मौका मिला। हमारी गवर्नमेंट को हमारी सुविधाओं का ख्याल रखना चाहिये। हमारे यहाँ आज भी कोई सिविल कूल नहीं है। मेरे डिस्ट्रिक्ट में अब भी एक दूसरे की खरीद फरोस्त पर मनाही है। इसीलिये

आज तक हम लोग सुखी रहे हैं। हमारे यहां अब तक कोई सुधार का काम नहीं हुआ है। पहले तो हमारे यहां ब्रिटिश गवर्नमेंट ने पढ़ना लिखना नहीं सिखाया। अब तो चूँकि हमारी गवर्नमेंट हो गई है, इसलिये हमें मौका मिल रहा है और स्कूल आदि भी खोले जा रहे हैं। हम लोगों को शिक्षा भी मिल रही है और आगे चल कर हम सभी कुछ सीख सकेंगे, अभी तक तो हम लोग कोई कागज तक पढ़ नहीं सकते थे इसी लिए जो विधान होते थे उन को हम समझ नहीं पाते थे। वहां आज कल भी वही हालत कुछकुछ चल रही है जैसे कि अंग्रजों के राज्य में चला करती थीं। वहां अब भी मिशनरी लोगों का जोर है और इस के लिये अभी तक कोई इन्तजाम नहीं किया गया, इस के लिए कुछ न कुछ इन्तजाम जल्दी ही करना चाहिये। मिशन वाले काफी रुपये वाले लोग हैं और जो आदमी अशिक्षित हैं उन के बीच में रुपये डाल कर ऐसे लोगों को भुला भटका कर अपना प्रोग्राम पूरा करते हैं। हम लोग तो अभी भी पुरानी ही रीति से रहते हैं। राम चन्द्र के युग में जिस प्रकार घनुष वाण लोग रक्खा करते थे उसी प्रकार से हम लोग भी रखते हैं और आप जा कर देख सकते हैं कि तीर घनुष ले कर हम लोग शादी विवाह तक करते हैं। हम लोगों के पिछड़ेपन से फायदा उठा कर मिशनरी लोग हमें क्रिश्चियन बनाने का प्रयत्न करते हैं। हमारी गवर्नमेंट ने क्यों उन लोगों को वहां पर आजाद छोड़ दिया है यह मेरी समझ में नहीं आता है। स्टेट गवर्नमेंट उन को कंट्रोल नहीं कर सकती है सेन्ट्रल गवर्नमेंट के साथ हम लोगों का कनेक्शन है इस लिये सेन्ट्रल गवर्नमेंट को इस का इन्तजाम करना चाहिये।

10 A.M.

हम लोग हमेशा अपने जंगलों और झाड़ों की रक्षा किया करते थे, लेकिन फारेस्ट डिपार्टमेंट के लोगों ने सब

कुछ खराब कर दिया। उन को इस की आजादी मिली है कि वह अपने हाथ से मुहर लगा कर जिस को चाहें ब्लैक मार्केट से गाछ को बेच देते हैं लेकिन यदि हम लोगों को खेती के लिये चार हाथ के टुकड़े की दरकार हो तो हम लोगों पर जुल्म किये जाते हैं, और हम को जेल में जाना पड़ता है। मैं बहुत दुःख के साथ यह बात आप के सामने कहता हूँ। इस लिये हमारे गृह मंत्री महोदय या हमारे प्रधान मंत्री स्वयं जा कर वहां पर देखें और मीटिंगें करें और जांच करने के बाद जैसा कानून ठीक समझें वैसा बना दें, इस में हमें कोई एतराज नहीं है। जांच करने के बाद जैसा भी कानून सेन्ट्रल गवर्नमेंट बनायगी हम उस को मानने को तैयार हैं। हम लोग वहां के रहने वाले हैं हमारी हालत को हमारे बीच में जा कर ही उन को देखना चाहिये। जहां पर आदिवासियों की मैजारिटी है वहीं पर जा कर उन को पता चल सकता है कि उन की क्या हालत है। चूँकि वह लोग संथाली भाषा बोलते हैं इस लिये वहां पर जो मैथिली भाषा है उस को भी थोड़ा बहुत समझ सकते हैं। ऐसी हालत में आदिवासी एरिया में कानून को बहुत कम लोग समझ पाते हैं। अंग्रेजी शासन काल में जिस तरह से वह लोग चाहते थे करते थे। उन्होंने ही हमारी बाउन्ड्री तय की हुई थी। हम समझते हैं कि जो कुछ ब्रिटिश शासन काल में हुआ था उस को अपनी आंखों से जा कर देखिये, और उस के बाद जैसे चाहें कानून बनाइये, हम लोग उस के लिये राजी हैं, उस में हमें कोई आपत्ति नहीं है।

श्री भागवत शा आजाद (पूर्निया व संथाल परगना) : सभापति जी, अभी हमारे दो मित्रों ने श्री जजवाड़े और श्री हेमब्रॉम ने जो कि संथाली मेम्बर हैं इस सभा के सामने और माननीय मंत्री जी के सामने यह विचार रक्खा था कि जब आप इस विधेयक को इस सभा में लाये हैं तो उस का उद्देश्य

[श्री भागवत झा आज़ाद]

यही है कि उन क्षेत्रों में जहाँ आज तक सामान्य कानून एक तरह से लागू नहीं किये जाते हैं, वहाँ यह कानून लागू किया जाय। मुझे मालूम है कि अब तक जो भी कानून देश में आज तक पास हुए उस के सम्बन्ध में संथाल परगने के लिये अलग से यह आर्डर देना पड़ता था कि यह देश के और भागों में ही नहीं बल्कि संथाल परगने में लागू किया जायगा। आज तक यह तरीका चला आ रहा है। इस का कारण मुख्यतः यह है कि ब्रिटिश शासन के समय में उन की संकुचित मनोवृत्ति के कारण इस को अलग रक्खा गया : इस का एक मात्र उद्देश्य यह था कि चूँकि किसी कानून के लाने से संथाल परगने का जो एरिया है वह भी उन्नत हो जायगा, इस लिये उस कानून को वहाँ पर न लागू किया जाय। आप ने इस प्रथा को बदला नहीं इस का परिणाम यह है कि आपने जो जो कानून बनाये वे कानून आपने उन क्षेत्रों में लागू किये जिन का आप को पूर्ण विकास करना था और विकास हुआ भी। लेकिन आप ने उन को संथाल परगना के क्षेत्र के सब विभागों पर उन को लागू नहीं किया विशेषकर उन स्थानों पर जहाँ के लोग पिछड़े हुए हैं, दबे हुए हैं। वहाँ के लोग आज भी पूर्ण रूप से स्वतंत्र अपने को नहीं अनुभव करते, वह आधुनिक सभ्यता से भी बहुत दूर हैं। इस लिये आवश्यकता इस बात की है कि आज के जमाने में जो हमारी लोकप्रिय सरकार है, वह इस विधेयक को इस सभा में ला रही है, जिस के जरिये वह यह चाहती है कि दो सबडिवीजनों को भी अपने कानून के पर्व्यू में ले आये, वह बाकी के सब डिवीजनों को भी इस में ले ले। इस बात की बड़ी आवश्यकता है कि सिर्फ गोड्डा और देवघर सबडिवीजनों को न ले, बल्कि संथाल परगने में जो चार और भी सबडिवीजन हैं उन को भी अपने विधेयक के अन्दर ले ले। मैं नहीं समझ पा रहा हूँ कि आखिर सरकार की इच्छा क्या है? हो सकता है कि उसके

पास इसके लिये कोई कारण हो, लेकिन हम लोग यह जानना चाहते हैं कि राज महल पाकूड़, जामताड़ा और साहबगंज सबडिवीजनों को इस विधेयक के अन्दर क्यों नहीं लिया जा रहा है। क्या इसलिये कि गोड्डा और देवघर सबडिवीजनों की हालत अच्छी है। यह अवश्य है कि गोड्डा और देवघर सबडिवीजन कुछ उन्नत सब डिवीजन हैं, लेकिन इस का कोई कारण मालूम नहीं होता कि उस को अलग कर दिया गया।

आपके इस विधेयक का उद्देश्य बहुत सुन्दर है और इस के सिद्धान्त से हम लोग सहमत हैं, हम समझते हैं कि गृह मंत्री ने यह बहुत बड़ा कार्य किया है, लेकिन साथ साथ हम यह भी समझते हैं कि गृह मंत्री का कार्य अभी सम्पूर्ण नहीं है, पीसमील है। आप ने उन लोगों को छोड़ दिया है जो इस जिले के पुराने रहने वाले हैं। आपने उन के साथ वही सुलक किया है जो किसी लोकप्रिय सरकार को नहीं करना चाहिये। यह वैसा ही सुलक है जो ब्रिटिश काल में होता था और जो किसी भी शासन के लिये लज्जापूर्ण था।

आज आप ने जो काम उठाया है, और जो आप इन एरियाज को अपने कानून के अन्दर लेना चाहते हैं तो मेरी आप से यह अपील है कि सिर्फ गोड्डा और देवघर सब डिवीजनों को ही न लें, बल्कि संथाल परगने के सभी डिवीजनों को लें। मुझे इतना ही कहना है। मोरे साहब ने कहा कि यह आटो-मैटिकली लागू हो जायगा, तो इसमें मुझे कोई एतराज नहीं है। लेकिन जब तक ऐसा नहीं हो रहा है तब तक के लिये मेरा कहना है कि जैसा कि मेरे दो मित्रों ने श्री हेमब्रोम और श्री जजवाड़ ने कहा है उसको इसके अन्दर लिया जाय। श्री लाल हमब्रोम संथालों के प्रतिनिधि हैं और उन्होंने

यह मांग की है कि इस क्षेत्र के अन्दर यह कानून लागू किया जाय क्योंकि इसके बिना आज तक बहुत जुल्म होता रहा है। ऐसा करना न्याय करना होगा। इन शब्दों के साथ मैं आपसे अनुरोध करता हूँ कि श्री जजवाड़े जी ने जो अमैंडमेंट दिया है उसको मान लिया जाय।

Dr. Katju: The speeches of the different hon. Members that preceded me have proceeded on somewhat contradictory lines and each one has answered the other. Before I go into the matter, I shall deal first with one point, namely, the complaint about the priority of Bills. Reference was made to some very sinister motive in keeping back the Untouchability Bill, but this is wholly an unfounded charge. This Bill was introduced in the Council of States as a purely formal matter and the Council of States has passed it and it has come up here. When we were considering the business before the House, it was thought that all Bills which come here from the other House should not be held up and should be passed. It was only on that ground that it was included in the list of Bills that had been passed in the Council of States and had come up here. There is no design whatsoever behind it.

Secondly, the argument that was advanced by my hon. friend, Mr. More, was that he felt that the Bill was unnecessary because, the Constitution having been passed, all areas have become part of the Union and, therefore, automatically, the laws apply. That is one view to take, but as my hon. friend himself referred, under the Government of India Act, 1935, there were the excluded areas and partially excluded areas, to which laws were made applicable by Governors' orders. Under the present Constitution, the words 'excluded areas' and 'partially excluded areas' have been done away with. Now, we have got Scheduled Areas under Schedules V and VI of the Consti-

tution. It may be that my hon. friend is right in this matter of law that every single Act applies, but we were given the advice that the matter was a doubtful one, and, therefore, it would be desirable to have an express Act passed to that effect.

Shri S. S. More: If you are doubtful about it, why do you not refer the matter to the Supreme Court under article 143, instead of having a needless legislation?

Dr. Katju: I shall bear that in mind for the future and trouble the Supreme Court with all these points every day. In that case, the Supreme Court will have little time left to decide important cases between citizen and citizen and citizen and State as it will be fully occupied in giving us advice on these matters. I am trying to explain the position with regard to the genesis of the Bill. We asked the various State Governments whether there were any Acts which were not applicable at present to the Scheduled Areas which we have now included in the Union List. Out of all the States we addressed, five responded to us and gave a long list and we passed it. My hon. friend then said that it was unnecessary. Assuming that it is unnecessary, and that every Central Act applies automatically, then there was no need for my hon. friend to argue about the Whipping Act—"Withdraw the Act because it is unnecessary and enlarge it so that it may have an enlarged Act in its place." My hon. friend was making all this hullabaloo about the Whipping Act and about the moral indignity. Only one State Government has made that recommendation and no other State Government wanted it because the Acts which are applicable in the States provided for a sentence of whipping. All these Acts relating to whipping are on the Union List No. 1 of the Seventh Schedule. I have got the figures for Bombay here, and out of about thousands of cases, the total number in

[Dr. Katju]

which prosecution was launched in Bombay in 1951 was 9,61,571 and the number of cases in which the sentence of whipping was imposed was only 52. As a matter of fact, we in the Central Government in the Home Ministry are dealing with this matter altogether, and we are considering the question as to whether the punishment of whipping should be either completely abolished or should be restricted to a limited number of cases. Judicial opinion and public opinion vary. I have heard very competent people on the judicial side saying that there are particular types of offences for which no punishment is more suitable than that of whipping—offences involving moral depravity or misbehaviour against women and children. If a man misbehaves with a woman or with a child, then the only punishment is that he ought to be whipped in a public place whether he is a member of the Scheduled Castes or whether he is a member of the so-called high caste. That is the only punishment and is a matter for consideration on a larger scale. The way in which the argument was brought here was as if the Government was doing something grossly immoral, the hon. Member opposite being the embodiment of all virtues.

Shri S. S. More: What are we according to the Home Minister?

Dr. Katju: As four hours have been allotted for five Bills, I thought I should only take ten minutes.

Some areas have not been included and we were proceeding upon the recommendations of the Bihar Government. I give the assurance that I shall make enquiries from the Bihar Government and if what my hon. friend has said is correct, then we shall rectify it. If it can be done by an executive order, we can do it ourselves, but if it cannot be done by an executive order, we shall set it right in the proper way. There is no

desire whatsoever for keeping any particular area as a sort of excluded area. Those areas are enjoying the same benefits as are enjoyed by the rest of India, and the same responsibilities too—this is very important.

Shri Bhagwat Jha Azad: Did the Bihar Government advance any reason for not including those areas?

Dr. Katju: Probably there are some reasons, but I shall make immediate enquiries and shall let you know. If it can be done by an executive order, it will be done. If it cannot be done by an executive order and requires legislation, then I will take necessary action for doing it, but let this Bill be passed.

Mr. Chairman: The question is:

“That the Bill to extend certain laws to the areas which, prior to the commencement of the Constitution, were administered as excluded or partially excluded areas and which, on such commencement, were absorbed in certain States, as passed by the Council of States, be taken into consideration.”

The motion was adopted.

Clause 2.—(Definitions)

Mr. Chairman: Now we shall take up clause by clause consideration.

There is no amendment so far as clause 2 is concerned, and so I shall put the clause to vote.

The question is:

“That clause 2 stand part of the Bill.”

The motion was adopted.

Clause 2 was added to the Bill.

Clause 3.—(Extension of laws)

Mr. Chairman: There are some amendments to this clause by Shri

Kirolikar and Shri Telkikar and by Shri Jajware. I do not find Shri Kirolikar and Shri Telkikar.

Shri Jajware: I do not wish to move the amendment standing in my name, in view of the assurance given by the hon. Home Minister.

Mr. Chairman: The question is:

“That clause 3 stand part of the Bill.”

The motion was adopted.

Clause 3 was added to the Bill.

Schedules I to V, clause 1, the Title and the Enacting Formula were added to the Bill.

Dr. Katju: I beg to move:

“That the Bill be passed.”

Mr. Chairman: Motion moved:

“That the Bill be passed.”

Shri N. B. Chowdhury (Ghatal): I have only one point to make. We understand that the Indian representative on the Commission of Trust Territories and Dependent Areas of the UNO spoke against the punishment of whipping and opposed that punishment. How is it that the Government of India is maintaining it inside the country itself. This is highly anomalous. We think the propriety of this sort of punishment should be considered very carefully. We urge upon the Government to do away with this sort of punishment as early as possible.

Dr. Katju: When we are considering new legislation about whipping I shall bear in mind the suggestion which my hon. friend has made.

Mr. Chairman: The question is:

“That the Bill be passed.”

The motion was adopted.

DRUGS AND MAGIC REMEDIES (OBJECTIONABLE ADVERTISEMENTS) BILL

The Minister of Health (Rajkumari Amrit Kaur): I beg to move:

“That the Bill to control the advertisement of drugs in certain cases, to prohibit the advertisement for certain purposes of remedies alleged to possess magic qualities and to provide for matters connected therewith, as passed by the Council of States, be taken into consideration.”

I do not wish to take much time of the House, especially when the same allotted for this Bill is very very limited. I am quite sure that this little measure that I am placing before the House today will not meet with any opposition, but will meet with as much general approbation as it did in the other House. I need not say anything more about the objects of the Bill, as they are contained in the Statement of Objects and Reasons. But I have been very worried about the increase in recent years in the number of objectionable advertisements relating to so-called wonderful cures for various diseases, which are not only obscene, but are positively dangerous. These are only means for unscrupulous people to exploit the ignorant section of the population. In the Drug Rules made by the Central and State Governments there exists a provision according to which no drug purporting or claiming through its label or enclosed literature to prevent or cure certain diseases can be imported or manufactured for sale. But this provision was found to be very inadequate for the purpose under consideration.

I have received notices of a few amendments, which I am afraid I am unable to accept. Many of them are purely verbal in character. We have